that the decision to refuse legal aid in itself amounted to an implementation of EU law. Rather, it was argued that logically prior to this decision was the decision of the Government not to exercise jurisdiction in Ms Sandiford's case, and that it was that decision which amounted to an implementation of EU law under Framework Decision 2004/757/JHA of the Council of Euope ("the Framework Decision"), which lays down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking.

This argument was ultimately rejected, because the Court of Appeal decided that there was no "decision" not to exercise jurisdiction in this case. There was no extradition treaty with Indonesia, and so there was no decision not to exercise jurisdiction which otherwise did or should have existed. Further, as Lord Dyson noted, if Ms Sandiford's argument was right, then the UK would be obliged to provide legal assistance to anyone charged with drugs trafficking offences anywhere in the world, no matter how serious the offence or penalty. That was a consequence the Court of Appeal was not willing to facilitate.

That decision was reasoned on the basis that the Framework Decision applied to offences committed outside the EU. It appeared to be accepted by both parties that it did, although Lord Dyson indicated his view that when properly interpreted, the Framework Decision did not apply to non-EU drugs trafficking offences. That would also dispose of Ms Sandiford's case in reliance on the Charter.

The remaining grounds of argument were based upon well-known domestic law principles of judicial review. Ms Sandiford argued that the blanket policy of refusing legal aid to overseas nationals facing the death penalty without exception amounted to an unlawful fetter of discretion, but this was rejected on the basis that, unlike statutory discretions, exercises of prerogative discretion (as in this case) were able to be limited in that way.

The argument that the policy was irrational was also rejected, with the Court of Appeal noting that the resource-focused reasoning of the Foreign and Commonwealth Office, whilst perhaps harsh and unreasonable in the eyes of some, could not be said to be perverse. In a situation where the Government has a policy goal of "using all appropriate influence to prevent the execution of British nationals" and actively seeking to reduce the number of executions abroad, this particular aspect of the decision was a stark reminder of the strictness of this irrationality test.

Fortunately for Ms Sandiford, it appears that in her case she may have been able to raise the necessary funds for her appeal by way of private donations. She has lodged an appeal with the Supreme Court of Indonesia, with further options for judicial review or an application for a pardon if that fails.

Hostages: **Hostages:** Chedwyn Evans, 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.

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MOJUK: Newsletter 'Inside Out' No 428 06/06/2013)

DPP Sides With Campaign Groups Over Suspect Anonymity *Raymond Peytors*

TheOpinionSite.org is saddened to report that the Director of Public Prosecutions, Kier Starmer QC, appears to have sided with protection charities and women's lobby groups over the issue of anonymity for suspects arrested but not charged. He delivered a keynote speech recently in which he stated that he wanted cases that had not been pursued by the police to be revisited and reassessed. He has now, during the course of answering questions put to him by a senior select committee of the House of Commons, publicly given in to the hysteria over sexual assault that currently envelops Britain .

Regrettably, it would appear therefore that Mr Starmer is more interested in carrying favour with charities and campaign groups than with the interests of justice. The DPP is due to leave his post in October and, if he follows the route of his predecessors, will probably end up as a High Court judge; something that based on his current view, should worry everyone. His comments to the House of Commons Justice Select Committee put him at odds with the decision by the Association of Chief Police Officers to retain anonymity for those arrested until and unless they are charged.

ACPO have however made it clear that there will be circumstances in which it is necessary or desirable to name those that have been arrested. Ostensibly this is where it is necessary to do so in the public interest (whatever that means nowadays), for the detection and prevention of crime and for other exceptional reasons. It is likely therefore that someone who is arrested on suspicion of armed robbery is unlikely to be named, whereas someone arrested for the most minor sexual offence probably will be in order that the media can indulge in their usual feeding frenzy whilst at the same time remaining friends with the police.

These double standards, that is applying one standard to one particular type of offence and applying different standards to other types of offence, do nothing for the interests of justice or for public confidence in the police or Crown Prosecution Service.

Starmer's intervention in April, made in the wake of the Jimmy Savile enquiries, was not only unwelcome but was also most unwise. It is well known that the DPP has been under pressure from the NSPCC and other campaigning groups eager to maintain the perception that every child is vulnerable and that all men are potential paedophiles, such groups eager to maintain the perception of public fear in order to maintain their own healthy bank balances.

Keir Starmer previously a leading human rights and defence barrister - is anxious to go out with a flourish after his five-year tenure and clearly has not thought through the effects of his words or, worse, if he has given them sufficient consideration, does not care about the unintended consequences that will inevitably result. TheOpinionSite.org would also point out that Starmer is not alone in sucking up to the charities who increasingly seem to dictate government policy.

Almost unbelievably, the ambitious – and some would say vicious – Home Secretary, Theresa May unexpectedly wrote to ACPO informing them that suspects who are arrested should generally not been named publicly until and unless they are charged with an offence. Only one day later however, the Prime Minister, David Cameron made a statement that effectively overruled the Home Secretary in which he said that as a general rule, anyone arrested should be named; an unbelievably stupid thing to say given that there are 1.2 million arrests

in the UK every year and someone can be arrested for any number of reasons and de-arrested only 30 minutes later.

It would seem therefore, in the view of TheOpinionSite.org at least, that Mr Cameron is as anxious to pander to the charities and lobby groups as Mr Starmer, neither fact being conducive to maintaining public confidence in Britain's so called criminal justice system. The police however seem to be adamant in doing their own thing and sticking to their own rules, regardless. ACPO has made it clear that having made a decision as to what guidance should be given to police forces with regard to naming those who have been arrested, chief constables intend to fully support such guidance and as a general rule, will not name those who have been arrested until and unless they are charged.

Those in favour of naming arrested suspects maintain that it is necessary to do so, particularly in alleged cases of sexual assault, in order that "other witnesses and those with further allegations" may be encouraged to come forward. Those against naming suspects at the point of arrest however, make the important point that if someone is arrested, there should be sufficient information and evidence with which to charge them. This is wholly different from arresting somebody on the weakest of suspicions in the vague hope that some kind of "fishing exercise" can be carried out or worse, that by plastering the suspect's name all over the media, sufficient people will be encouraged to jump on what could be a very profitable bandwagon.

Even one member of the Justice Select Committee, Seema Malhotra was stupid enough to quote the recent case of Stuart Hall, the ex-BBC television presenter when the committee was questioning Mr Starmer earlier this week. Malhotra claimed that it was only because Stuart Hall was named that other "victims" came forward. To his credit, Starmer immediately corrected her and pointed out that this was not the case and that Hall had in fact been arrested at 10 o'clock in the morning and charged at 7.00 PM the same day, other witnesses coming forward long after the charge was made.

MPs are frequently seen to be uninformed as to the reality of life and frequently made to look stupid by incorrectly quoting what they regard as facts. However, to have a member of such an important select committee make such a glaringly public error in an attempt to shore up a weak argument is frankly appalling. Given though that all female MPs seem to believe that all men should be locked up forever, perhaps miss Malhotra's few is not so surprising.

Whatever one's personal view may be regarding the naming of those who are arrested, it cannot possibly be right that reputations, jobs and families can be put at risk simply because the police either have insufficient evidence to charge the person they have arrested or the media are hungry for a story. In the wake of Operation Yewtree, the ever more expensive and apparently ineffective Metropolitan Police enquiry into offences alleged to have been carried out by those associated with Jimmy Savile, only two people has so far been charged although 12 have been arrested and been hung out to dry by the media.

TheOpinionSite.org believes that Britain's obsession with child abuse – and we know that this view will not be popular – has reached such a level of hysteria that the very fabric of the justice system is now at risk of becoming tainted by paedophile madness and political weakness. If this is true, and of course there will be those who have a contrary opinion, the very nature of justice in Britain will be subject to catastrophic change as politicians, policeman and other associated authorities seek to play catch up in pandering to the over powerful and over wealthy lobby groups, charities and child protection organisations. Nevertheless, the fact is that none of the historic allegations that Mr Starmer and others are so keen to pursue have or indeed ever will result in even a single child being protected from what may or may not have been appalling abuse.

Human Rights. The Court of Appeal reiterated the test for coming within the scope of that instrument, most recently expressed in the European Court of Human Rights decision in Al-Skeini and others v United Kingdom (2011) 53 EHRR 18 . In that case, the Grand Chamber found that the UK's military actions in Southeast Iraq fell within the scope of the Convention, due to its assumption of responsibility for the maintenance of security in the region. The test is essentially one of sufficient control, and in Ms Sandiford's case, the Court of Appeal agreed with the High Court that the actions of consular and diplomatic officials to assist Ms Sandiford did not amount to the UK having a degree of control sufficient to engage its ECHR obligations. Ms Sandiford was therefore unable to challenge the decision to refuse legal aid on the basis of alleged breaches of Article 6, or for that matter Articles 2 or 3 of the Convention.

Lord Dyson explained: A motif that runs through the cases is that it is a condition of the engagement of article 1 that the acts or omissions of which complaint is made come within the scope of an exercise of control and authority by the state in question. That is the governing principle in relation to diplomatic and consular activities… The mere provision of assistance by consular officials is not enough to engage the article 1 jurisdiction. Whether the involvement amounts to the exercise of control and authority sufficient to engage the jurisdiction is a question of fact and degree. But in circumstances where the individual is completely under the control of and detained by the foreign state, it is difficult to see how the necessary degree of authority and control can be exercised by diplomatic and consular agents who do no more than provide the kind of assistance that was provided to the appellant in the present case.

Pausing here, in the previous blog post about this case, it was explained the Soering principle was held not to apply by the High Court. That principle provides that a signatory state could be liable under the ECHR "by reason of its having taken action which has as a direct consequence the exposure of an individual to proscribed ill-treatment" (Soering v United Kingdom (1989) 11 EHRR 439 at paragraph 91), and it was decided that Ms Sandiford was not being exposed to a risk of death as a direct consequence of action taken in the UK. That argument was not reviewed in the Court of Appeal, but some have queried whether or not the High Court was right on this point. As was pointed out in a blog at the Huggington Post, where there is statistical evidence that people without legal representation are significantly more likely to fail in their appeals against the death penalty, there is an argument that the risk of death they face is directly impacted upon by a decision not to grant legal aid. The answer mnay be that there is a distinction between act and omission in these circumstances, or between creating a risk and materially increasing an existing risk, but as the issue was not re-examined, the decision of the High Court stands.

Another key part of Ms Sandiford's case was her reliance on the Charter of Fundamental Rights of the European Union. This instrument may be less familiar to readers of this blog than the ECHR, but it is nevertheless a legally binding document (it entered into force on 1 December 2009) which is increasingly referred to by courts throughout the EU. Its content replicates many of the articles of the ECHR, but it also includes a number of additional protections such as freedom in scientific and artistic research, and intellectual freedom. Importantly for Ms Sandiford, Article 2 of the Charter enshrines the right to life and specifically prohibits the death penalty, but it only applies when EU member states are implementing EU law (per Article 51).

Highly technical: Ms Sandiford's argument in reliance on the Charter was highly technical, and it is worth reading the judgment carefully for the details. In summary, it was not argued

way through their sentences'. At this inspection we found that the provision of activity was much improved, and there was cause for continued optimism. The management of learning and skills was now more strategic and working to an encouraging plan. Quality was better but there still remained an over-reliance on menial work. Prisoners spent less time in their cells but take-up of activity was still too low. We still found far too many prisoners on the wings during the working day doing nothing. There needed to be greater rigour in getting people to activity, getting them there on time, and getting them there for meaningful amounts of time. It will be essential to ensure prisoners are fully occupied when the prison moves to 'new ways of working' with fewer staff available to supervise.

Resettlement services remained reasonably good and would be even better if they were more effectively coordinated. All prisoners had an offender supervisor but those who were higher risk were prioritised. More work was required in supporting staff to address risk reduction. Release on temporary licence in support of resettlement was improving, and resettlement services generally were reasonably effective, especially the children and families pathway. Pre-release follow-up and coordination were weak.

Rochester is not an easy prison to run. It is a complicated and mixed institution where change feels ever present. The prison was heading in the right direction and managers seemed to be working to a clear vision and plan, although this had yet to translate fully into clear improvements in outcomes for prisoners. The prison faced a number of operational risks as it implemented its strategies which will require confident management. There was, nevertheless, some cause for optimism.

Death Penalty Legal Funding Refused

Appeal court confirms limits of Human Rights Act Matthew Flinn, UK Human Rights Blog

Lindsay Sandiford R (application of Sandiford) v Secretary of State for Foreign & Commonwealth Affairs [2013] 168 (Admin)

On 22 April 2013 the Court of Appeal upheld the decision of the Foreign and Commonwealth Office in refusing to pay for a lawyer to assist Lindsay Sandiford as she faces the death penalty for drug offences in Indonesia. Last Wednesday, they handed down the reasons for their decision

On 19 May 2012 Lindsay Sandiford was arrested at Ngurah Rai International Airport in Bali following the discovery of almost five kilograms of cocaine in the lining of her suitcase. A number of south-east Asian countries take a notoriously hard line on drugs offences, and following her conviction on 19 December 2012, Ms Sandiford was sentenced to death. Many media outlets have reported that in Indonesia, death sentences are generally carried out by a firing squad.

Following this decision, Ms Sandiford sought assistance from the British Government. Specifically, she wanted the Government to pay for the services of a local Indonesian lawyer, to assist her as she navigated the various routes for challenging her sentence. Although the Government has a policy of opposing the death penalty (most recently set out in HMG Death Penalty Strategy: October 2010) it nevertheless refused to provide the financial assistance that Ms Sandiford was seeking. She challenged this decision by way of judicial review in the High Court, but on 31 January 2013, Gloster and Davis JJ dismissed her challenge. She subsequently appealed to the Court of Appeal, renewing the arguments she had advanced at first instance, and asserting that the High Court's decision had been wrong. The Court of Appeal disagreed.

Limits of the Human Rights Act: In respect of Human Rights law, the case is an important one in demarcating the jurisdictional limits of Article 1 of the European Convention on

The police and others should be concentrating on abuse that is taking place today, not on that which may or may not have taken place 30 or 60 years ago. For every hour the police spend investigating an alleged offence from the past, they are failing to spend an hour protecting a child who may very well be being abused at this very moment. This is the price that the charities and lobby groups, now apparently backed up by the Director of Public Prosecutions, have forced us all to pay.

The true danger to children appears to come not from dirty old men in soiled raincoats, lecherous teachers or perverted PE instructors but instead from the very organisations and agencies that allegedly protect children but in fact, are more interested in protecting themselves and their own collective existence. The proof of the above opinion is easily seen in the fact that none of the charities or protection organisations, let alone the women's lobby groups or indeed, the politicians want to investigate or even comment upon the fact that the majority of cases of sexual abuse of children, up to 85% according to the NSPCC, takes place within the home and is carried out by the parents, siblings or friends of the alleged victim. Unsurprisingly, the media don't want to go there either, for both the media and those organisations that purport to protect children know full well that their funding and their corporate incomes come from the very people that they would otherwise be investigating.

Given the damage that can be done to individual lives by naming people at the point of arrest, TheOpinionSite.org believes it would be entirely wrong to do so and that name should not be made public until and unless someone is charged with an offence. To do otherwise risks creating another victim and of wrecking families, reputations and innocent lives; something perhaps that Mr Starmer and the Prime Minister should have thought about before making the incomparably stupid suggestions that they both have made during the course of the last week or so.

Prisons - Most Unlawful Places On Earth

The governments Legal Aid and Punishment Act 2012 which came into effect in April 2013 represents one of the Tories most serious and vicious attacks on the poorest and most disadvantaged groups in terms of their relationship with an increasingly more repressive state, removing as it does the right to publicly funded legal redress for the already most powerless in society.

The Act also targets prison litigation, which right-wing Justice Minister Chris Grayling claims is "unnecessary and frivolous". In fact, the Act attacks what were previously legally enforceable basic rights for people in prison and now creates a total legal vacuum as far as those rights are concerned whilst encouraging the prison authorities to do exactly as it pleases with those in it's custody. Andrew Neilson of the Howard League for Penal Reform has warned that "without prisoners being able to access legal aid we may see a collapse in justice in the very place where it should be paramount – within prison walls".

In the hidden and secretive world of prison there exists something that resembles a totalitarian society where those who hold the keys have an almost omnipotent degree of power over those whom they guard and lock-up; inevitably that power is frequently and often grievously abused. If prisoners are denied the right and opportunity to seek legal redress if their basic human rights are abused then they will exist in a condition of civil death. In some places within the prison system prisoners do indeed exist in such a condition, like those held in the infamous "Close Supervision Centres (CSCs)". Created in 1998 to supposedly manage the most "difficult" and "challenging" prisoners, the CSCs very soon descended into places of brutality and extreme cruelty, especially for the disproportionate number of mentally ill prisoners who were dumped in them. Those operating and managing the CSCs were confident

that by labelling those confined within them as “the worst of the worst” the courts would turn a blind eye to their treatment, and there would be few if any amongst the prisoners themselves psychologically capable of legally challenging their treatment.

In the case of Kevan Thakrar they were seriously wrong. An extremely intelligent, articulate and determined litigious prisoner Kevan has throughout his time in prison constantly confronted and challenged the prison system's abuse of power both on his own behalf and on the behalf of other prisoners. It was therefore inevitable that sooner or later he would be consigned to a CSC, and in his case by an extremely traumatic and dramatic route.

During 2008 Kevan was in the mainstream prisoner population at Woodhill Prison in Milton Keynes where he repeatedly questioned and challenged abuses of power by prison staff. On the 31st May 2008 a gang of prison officers decided to teach him a very direct and painful lesson in compliance to their authority, and entering his cell they physically beat him up. The incident, apart from the physical injuries, would leave him with the much more permanent mental scar of post-traumatic stress disorder (PTSD).

Following his beating up he immediately complained to the local Thames Valley Police, who quite simply refused to investigate his complaint. He then tried to use the internal prisons complaint procedure, a mechanism that in terms of investigating fairly staff misconduct is wholly flawed and useless, basically because prison staff themselves determine and decide the extent and outcome of the “investigation”.

Predictably his complaint was treated with contempt and basically suppressed. At this point most prisoners usually give-up on trying to air a complaint through the official channels, which is exactly the real function and purpose of the prison complaints procedure, providing of course that prisoners will then learn the lesson that complaining about their treatment is useless.

Kevan, however, pursued his complaint to the Prisons and Probation Service Ombudsman, a body supposedly independent of the prison system and originally created following a recommendation from the Wolf report and investigation into the causes of the Strangeways prison uprising in 1990.

By now a thoroughly compromised and discredited body it failed even to conduct an appearance of an investigation into his complaint. So he took his complaint further, to the Parliamentary Ombudsman, Iain Stewart M.P., complaining specifically about the abject failure of the Prisons and Probation Service Ombudsman to conduct any sort of investigation into staff brutality at Woodhill prison.

On the 29 June 2012 the Parliamentary Ombudsman upheld Kevan's complaint, describing the behaviour of the Prisons and Probation Service Ombudsman in relation to Kevan's complaint as “maladministration” and an “injustice” to Kevan. The behaviour of the prison officers at Woodhill jail, however, went uninvestigated and unpunished.

Soon after his beating-up at Woodhill Kevan was “ghosted” around the prison system for a while before being transferred to Frankland prison in 2010. Frankland, a Maximum-Security jail near Durham, long had a reputation for staff violence and racism, and to whom Kevan, a mixed-race prisoner with a reputation of making complaints, would represent an absolute focus and target for their hatred. It's probable that Kevan was deliberately sent there for exactly that reason.

Predictably, soon after his arrival at Frankland Kevan indeed became a target for racist abuse by staff there, which he confronted and complained about repeatedly. And as at Woodhill a gang of prison officers one day entered his cell with the intention of teaching him a painful lesson concerning who's in charge, but this time he fought back. Re-enforcements were summoned and he was “restrained”, i.e. brutally worked-over.

Inspectors were concerned to find that:

- levels of violence and the use of force were reducing, but were still too high;
- insufficient progress had been made in providing respectful conditions
- strategies to reduce violence and bullying were in place but needed to be more rigorous;
- the approach to reducing violence among younger prisoners required improvement,
- staff had moved decisively to tackle a recent brief spate of organised fighting in this group;
- segregation unit was adequate but was used a lot, with a number of prisoners seeking sanctuary and unable to reintegrate back on to normal accommodation.
- use of illicit drugs was too high; - older accommodation was in a relatively poor condition;
- the prison's approach to the promotion of equality and diversity was lacklustre;
- take-up of activity was still too low and inspectors still found too many prisoners on the wings during the working day doing nothing.
- We retained some concerns about safety, - Inspectors made 90 recommendations

Introduction from the report: Rochester is a complex institution going through considerable change. It has the appearance of two institutions in one, with an older part that comprises the original borstal, and a newer part opened in 2008. Although Rochester has long experience of managing younger offenders, from 2011 the establishment became dual purpose and now also holds a significant and growing adult category C population.

The prison is also undergoing significant management change. As an early adopter of service bench marking and efficiency arrangements referred to as 'new ways of working', there were radical restructuring plans that envisaged substantial staff reductions to come.

This announced inspection followed up our previous visit in April 2011. Our judgement was that outcomes for prisoners at Rochester remained mixed, although overall the prison was better than it was two years ago. We retained some concerns about safety, and we evidenced insufficient progress in our assessment of respect. The provision of activity had improved markedly from a low base and was heading in the right direction. Resettlement services remained satisfactory.

Prisoners were treated reasonably well upon arrival at Rochester and perceptions of personal safety were comparable with what we find at similar establishments. The trajectory of significant indicators, such as levels of violence and use of force, was in the right direction but, along with levels of bullying, they remained too high. Strategies to reduce violence and bullying were in place but needed to be more focused and rigorous. The prison's approach to reducing violence among the younger population required improvement, although staff had moved decisively to tackle a recent brief spate of organised fighting in this group.

Prison's segregation unit was adequate but was used a lot, number of prisoners seeking sanctuary and unable to reintegrate back to normal accommodation. Too many prisoners in self-harm crisis were held in segregation without justification, although selfharming prisoners were usually well cared for. Prison's approach to security had improved significantly with procedures now applied with greater proportionality. Use of illicit drugs, however, was too high.

The quality of the environment varied greatly. The newer accommodation was good but much of the older accommodation was in a relatively poor condition. Communal areas, in particular, were dirty. Staff-prisoner relationships were mostly good, but less so in the view of some minority groups. This was perhaps unsurprising as the prison's approach to the promotion of equality and diversity was lacklustre. The provision of health services was good.

When we last inspected I described my impression of 'finding young men sleeping their

if they will be charged. More than 57,000 people are on this type of bail – where conditions are set by the police rather than the courts – including 3,000 for more than six months. One fraud suspect is still on bail three years and seven months after being arrested, a survey found.

Many of those arrested and bailed will ultimately not face charges. In some cases, suspects are suspended from their jobs while allegations against them are investigated. The Law Society, which represents solicitors, is calling for a 28-day limit on police bail, after which it said officers should be required to go before a magistrate to justify further bailing of a suspect.

Freedom of Information requests by BBC Radio 5?Live found at least 57,428 suspects were on bail in England, Wales and Northern Ireland, while 3,172 have been on bail for more than six months. In Scotland, bail is set by the courts, not the police. Scotland Yard has more than 12,000 suspects on bail, including 910 for over six months. In London, a man, 45, has still not been told if he will be charged after he was arrested in October 2009 on suspicion of fraud.

Senior police officers appear divided on the issue, with Andy Trotter, the head of the British Transport Police, calling for a six-month limit on bail. However, the Association of Chief Police Officers said that bail was an 'essential tool in securing justice'. Richard Atkinson, chairman of the Law Society's criminal law committee, said: 'It is not unusual for people to be on bail for several months while fairly routine investigations meander their way to a final decision. 'Because there is no requirement for the police to act within any time, there is an attitude among some officers of "let's put off until tomorrow what we could have done today" and things are just left to drag along.' He said one suspect accused of stealing a bicycle had been left on bail for seven months. Civil liberties campaigners have condemned the excessive use of police bail, which allows officers to restrict suspects' activities. This can include forcing them to live at a certain address, handing over their passport and making them report to a police station on a regular basis. There is no time limit on how long bail can continue and how many times it can be renewed.

Earlier this month, Mr Trotter told The Mail on Sunday: 'In the past, police have released people without bail and that hasn't stopped us continuing the investigation, particularly if they are unlikely to abscond. We have re-arrested them at a later stage when we have had sufficient evidence. That way, they are not left dangling.' But Chris Eyre, Acpo spokesman and chief constable of Nottinghamshire, said: 'Police bail is an essential tool in securing justice. It allows investigators to ensure every possible avenue is explored, while those arrested need not remain in custody.' Steve White, vice-chairman of the Police Federation, which represents rank-and-file officers, said the lack of resources made it more difficult for investigations to be concluded quickly.

A Home Office spokesman said: 'We continue to keep police bail provisions under review to ensure they strike the right balance between protecting an individual's right to civil liberty and allowing police to carry out thorough criminal investigations.'

Report on an Announced full Follow-up Inspection of HMP Rochester

Inspection 21/25 January 2013 by HMCIP, report compiled March 2013, published 30/05/13

"Rochester a dual purpose site catering for YO and Adult Cat C offenders, is not an easy prison to run. It is a complicated and mixed institution where change feels ever present. The prison was heading in the right direction and managers seemed to be working to a clear vision and plan, although this had yet to translate fully into clear improvements in outcomes for prisoners. The prison faced a number of operational risks as it implemented its strategies which will require confident management." Nick Hardwick

He was then criminally prosecuted for seriously assaulting the 3 prison officers who had initially entered his cell. At his subsequent trial at Newcastle Crown Court during October/November 2011 Kevan pleaded not guilty on the grounds that his behaviour when the prison officers entered his cell at Frankland was conditioned by what had taken place at Woodhill, the cause of his PTSD.

Dramatically, a psychiatrist originally hired by the prosecution effectively changed sides during the trial and supported Kevan's PTSD defence. He was acquitted by the jury, to the fury of the Prison Officers Association who initially threatened to try and instigate a private prosecution against him, and then no doubt decided to leave it to their members at the cutting edge of repression to extract a more personal revenge.

After his trail Kevan was transferred to the CSC at Woodhill prison, despite the Not Guilty verdict and evidence that his psychological condition required proper treatment as opposed to repression and brutality, something that intrinsically defined and characterised the regime in the CSCs. There was never any doubt that Kevan was sent to the CSC at Woodhill to be detained indefinitely, and not gradually "assessed" and "progressed" back to the mainstream prison population, the official rational and justification for sending "difficult" prisoners to the CSCs.

A crude Pavolovian system of "Rewards and Punishments" exists in the CSCs, provided with the necessary legitimacy by prison system employed and corrupted behavioural psychologists, who in fact rarely visit the CSCs, even to assess the condition of the many mentally-ill prisoners confined there; they are employed simply to provide a legitimate cover for the systematic abuse of human rights carried out within the CSCs.

The various levels of "supervision" or their intensity (the basic level of "supervision" involves the prisoner being held in clinical isolation, or solitary confinement, and denied all human contact, apart from that with a gang of prison officers clad in full riot gear whenever the prisoner's cell is unlocked for his one hour of statutory exercise, weather permitting, inside an outdoor cage) are determined by how the prisoner responds to the austere and cruel regime operating in the CSCs.

Compliance is rewarded with gradual "progression" to less punishing levels of "supervision" and control, until one graduates back to mainstream prison life. Defiance, on the other hand, is punished by a prolonged stay within the most repressive conditions; Kevan, predictably, has remained unassessed within these conditions since he was transferred to the Woodhill CSC in March 2010.

Most of the prisoners who share this "level of supervision" with Kevan suffer with severe mental illness, confirmed by the operational manager of the Woodhill CSC, Claire Hodson, and the noise level (screaming, door hammering, wrecking of cells) fills and permeates the self-enclosed unit 24 hours a day. Kevan has endured this hellish place for over two years by focusing on litigation and trying to hold the prison system legally accountable for his treatment and that of all prisoners.

Justice Secretary Grayling's "populist" claim that most if not all prison litigation cases were "frivolous" was a blatant lie and motivated equally by an intention to deny prisoners the right to legally challenge the sort of conditions that exist within the CSCs ("I am proposing to take legal aid away from prisoners who don't like the prison they are in, or don't like the cell they are in, or don't like a part of the regime") as it is about the financial benefits to cutting the legal aid bill during a period of "austerity".

Denied the weapon of legal challenge to the serious abuse of human rights in the CSC system, Kevan is now completely at the mercy of the system and his guards determination to extract full revenge for his acquittal at Newcastle Crown Court. It is unlikely that he will ever return to "normal location" in prison.

In his response to the governments removal of legal aid for the most powerless, the president of the Supreme Court, Lord Neuberger, warned that people who felt they were being denied justice could end up "taking the law into their own hands".

Prisoners finally winning the right to be properly legally advised and represented at prisoner disciplinary hearings in 1982 initiated prison litigation cases in U.K. Courts and more or less concluded a period of rather more direct action by prisoners in the form of riots during the late 1960s, the 1970s and the early 1980s. Graylings desire to turn the clock back to a time when prisoners possessed no rights that the prison system was bound to recognise or respect might well prove correct the aphorism "be careful of what you wish for".

John Bowden, 6729, HMP Shotts, Cantrell Road, Shotts, ML7 4LE

Keith John Burnside's Rape Conviction Quashed On Appeal *BBC News, 29/05/13*

A man who was shot by dissident republicans after being found guilty of raping a 15-year-old schoolgirl has had his rape conviction quashed. Belfast's Court of Appeal ruled the verdict returned against Keith John Burnside was unsafe. The 38-year-old, from Rosemount Gardens, Londonderry, was jailed in 2009 after he was found guilty of raping the girl in February 2000. While awaiting sentence, he was shot in both legs in a "punishment" attack. He was attacked by two masked men in front of his girlfriend and two children.

On Wednesday 29/05/13, the Court of Appeal quashed his rape conviction due to issues of potential prejudice to his defence. His lawyers had brought the appeal due to the delay in the rape complaint being made against him. The girl did not report the alleged attack for six years, but after telling her mother, she then made a statement to police. Mr Burnside's lawyers contended that the jury was not properly directed on the potential prejudice this caused. On that basis a panel of three judges, led by Lord Chief Justice Sir Declan Morgan, held that the guilty verdict was unsafe. Quashing the conviction, they decided not to order a retrial.

Mr Burnside had been found guilty of rape at his second trial at Londonderry Crown Court in 2009 and was jailed for seven and a half years. He was also ordered to sign the sex offenders' register for an indeterminate period. Mr Burnside's lawyer said he was "overwhelmed" at having his name cleared after two trials. "Although he spent many years in jail during which time he wasn't able to see his young son he is relieved that justice was finally done, allowing him to return to his family a free man," the solicitor said. "In a case like this it's very important that the public know about someone having their good name restored because up until now it was still reported that he had a conviction for a serious sexual assault." He added: "Our client not only served time for something he didn't do but he was also the victim of a serious attack. "He can now re-apply for compensation unfairly withheld from him for a broken leg sustained during a vicious paramilitary-style attack."

Triple Child Killer David Mcgreavy Can Be Named *guardian.co.uk, 22/05/13*

Judges revoke anonymity order on long-serving UK prisoner who is applying for parole after sadistic 70s murders. The murderer known as "M" can now be publicly revealed as triple child killer David McGreavy, who impaled the bodies of his victims on railings. McGreavy, now 62, was jailed for life in 1973 for killing the children he was babysitting at a house in Gillam Street, Worcester, and is one of the country's most notorious and longest-serving prisoners. The gagging order was made in response to fears that the killer's own life was in danger.

Justice secretary, Chris Grayling, and media organisations argued the anonymity order

Parliament. Related to that issue is whether local government elections and/or elections to the Scottish Parliament are properly to be regarded as 'municipal elections' under EU law. Further, if the Supreme Court decides that the Appellant can claim the right in question, the issues arises over which is the appropriate remedy.

Facts: The Appellant is a British national and a convicted prisoner who is serving his sentences in HMP Lowmoss in Scotland. He is serving a life sentence, of which the tariff of 13 years expired in October 2011, and a consecutive sentence of seven and a half years' imprisonment. He will be eligible for parole in July 2015.

In November 2010 the Appellant applied to the Electoral Registration Officer of Dumfries and Galloway for inclusion on the electoral register. This would have enabled him to vote in Scottish local government and Scottish Parliament elections, and separately in elections to the European Parliament. His application was refused in February 2011, and in March 2011 he brought judicial review seeking a declaration that the refusal was incompatible with EU law, an order requiring his inclusion on the electoral register, and damages in respect of any election in which he was unable to vote as a result of the refusal. He also sought an interim order for inclusion on the register to allow him to vote in the impending elections to the Scottish Parliament in May 2011.

The Lord Ordinary summarily dismissed the Appellant's petition for judicial review as the Appellant had not exhausted the statutory remedies available to him under the Representation of the People Act 1983. The Appellant was unable to vote in the Scottish Parliament elections in May 2011. He appealed, and as it was not contested by the Respondent that the basis of the Lord Ordinary's decision was incorrect, the merits of the petition for judicial review were addressed by the Inner House of the Court of Session. That court dismissed the appeal,

ruling that the EU law right to vote in municipal elections in a Member State could only be claimed by EU citizens when residing in a Member State of which they were not a national.

R v Gull (Appellant) On appeal from Court of Appeal Criminal Division (England and Wales)

Issue: Does the definition of terrorism in section 1 of the Terrorism Act 2000 operate so as to include within its scope any or all military attacks by a non-state armed group against any or all state or inter-governmental organisation armed forces in the context of a non-international armed conflict?

Facts: The Appellant is a British national, who was born on 24 February 1988 in Libya. The Appellant has lived most of his life in the UK. In February 2009, police officers executed a search warrant at his house. Material was found on his computer consisting of videos uploaded onto the internet site, YouTube, among others.

He was charged with offences under the Terrorism Act and was convicted at a retrial on all but one count and was sentenced to five years imprisonment. The videos to which his convictions related showed attacks by proscribed groups on military targets, including Coalition forces in Iraq and Afghanistan. The videos were accompanied by nasheeds, praising, for example the bravery of those carrying out the attacks and their martyrdom.

57,000 Suspects Left In Bail Limbo as Police 'Drag their Feet' Jack Doyle,Telegraph, 20/05/13

- Experts call for 28-day limit on bail period in light of new figures
- One man is still waiting to hear his fate from police 42 months after arrest
- Thousands each year wait 6 months for case to move forward or be axed
- Largest number are in London, followed by West Yorkshire then Manchester

Thousands of criminal suspects are 'left dangling' on police bail for months before they are told

sidered that the scope of the original investigation had been inadequate, and it was decided to significantly increase the scope of the second to include the way the police dealt with Ms Stubbings' report of Chivers' assault in July 2008, and the actions they took while he was in prison and upon his release. As a result of the second investigation the IPCC has made a number of recommendations to Essex Police who need to ensure that:

• all officers dealing with domestic abuse incidents are aware of the need to consider the physical and emotional wellbeing of any children associated with the household;

• officers dealing with crimes complete thorough intelligence checks to ensure that suspects are traced expeditiously, and there are now processes in place to deal with individuals who are considered potentially dangerous;

• officers and force information room staff are fully aware of the need to deal with reports of domestic abuse promptly and to take positive action in respect of named suspects;

• its recent improvements in the area of domestic abuse have been fully understood by all officers and that front line officers have received appropriate training.

IPCC has shared its investigation report with Ms Stubbings' family and Essex Police. Both IPCC Chair, Dame Anne Owers, and Commissioner Rachel Cerfontyne have met the family to discuss their concerns and express regret about the shortcomings of the first IPCC investigation.

Cases to be Heard by UK Supreme Court

Prisoner voting rights: does EU law give convicted prisoners the right to vote in municipal and/or European Parliamentary elections? What is the Definition of 'Terrorism' for the Purposes of the Terrorism Act?

R (application of Chester (Appellant) v Secretary of State for Justice (Respondent) (10 - 11 June 2013). On appeal from the Court of Appeal (Civil Division) (England and Wales)

Issue: Should the court issue a declaration that the statutory ban on the Appellant, a post-tariff indeterminate sentence prisoner, voting in Parliamentary and European Union elections (a) is incompatible with Article 3 of the First Protocol to the European Convention on Human Rights; and/or (b) is incompatible with European Union law

Facts: The Appellant is a prisoner serving a life sentence for murder. As such, he is disenfranchised from voting in national and European elections by the Representation of the People Act 1983 ("ROTPA") and the European Parliamentary Elections Act 2002 ("EPEA"). In 2008 the Appellant brought judicial review proceedings claiming that these provisions violated his rights under the law of the European Union and under Article 3 of the First Protocol to the European Convention on Human Rights ("A3P1"). He sought a declaration of incompatibility under s. 4 of the Human Rights Act 1998 in respect of s. 3 of the ROTPA. He also sought a declaration that s. 8 of the EPEA should be read down so as to allow for the enfranchisement of prisoners in his position in relations to European elections.

In the Scottish case of Smith v Scott 2007 SC 345 the court made a declaration of incompatibility in respect of s. 3 of the 1983 Act. Respondent has since published the Voting Eligibility (Prisoners) Draft Bill which is being considered by a parliamentary committee". The Appellant's application for JR was dismissed by Burton J and by the Court of Appeal.

McGeoch (AP) (Appellant) v Lord President of the Council& anor (Respondents) (Scotland) On appeal from the Inner House of the Court of Session (Scotland)

Issues: The case concerns whether the Appellant, who is a convicted prisoner, can claim a right under EU law to vote in municipal elections and/or in UK elections to the European

was legally flawed and wrongly prevented the public from knowing the full facts of the case. The order restricted the media to saying that they were "3 sadistic murders – but that doesn't even give you the half of it", said Vassall-Adams. "The full facts are exceptionally horrific by even the standard of murders." The sheer brutality of the murders shocked and horrified the nation. The youngsters – Paul Ralph, four, and his sisters Dawn, two, and nine-month-old Samantha – were all killed in different ways. Paul had been strangled, Dawn was found with her throat cut, and Samantha died from a compound fracture to the skull. McGreavy, who was lodging with the victims' parents, was babysitting in April 1973 when he carried out the killings, earning him the title, the Monster of Worcester. He impaled the bodies on the spiked garden railings of the next-door neighbour in Gillam Street. He was jailed for life in 1973

Lord Justice Pitchford, sitting in London with Mr Justice Simon, ruled on Wednesday that the anonymity order must be discharged. The judge said that the course adopted by McGreavy's legal advisers when applying for anonymity was wrong. Lord Justice Pitchford said: "This has been frankly accepted by them." The ruling was a victory for Grayling and national newspaper publishers who joined him last month, after being alerted by the Press Association, to argue that the order was legally flawed and wrongly prevented the public from knowing the full facts of the case. Vassall-Adams had told the judges that even "the nature of the victims" could not be publicised.

The anonymity order was made during the course of a legal challenge by McGreavy, who has spent decades in prison, against a Parole Board decision refusing him a transfer to open conditions. It was granted by Mr Justice Simon, who dismissed M's parole challenge this year. It followed on from a previous no-names order that had masked McGreavy's identity since 2009. He rejected submissions from the Press Association that allowing anonymity set a precedent for other high-profile prisoners to seek similar orders. Because of the widespread implications, the issue returned to court in April for a full hearing before Lord Justice Pitchford.

Vassall-Adams told the judges M's lawyers were arguing the case was about "whether the media should be allowed to imperil (M's) life or scupper his chances of rehabilitation". He said those arguments really applied to a different type of case in which individuals – such as Jon Venables and Robert Thompson, who killed James Bulger – were provided with a new identity and there were injunctions against the media aimed at protecting them from being attacked while living in the community."The injunction protects confidential information, which is the new identities. It doesn't prevent the media reporting what is already public," said Vassall-Adams.

M had already been in prison for 40 years serving multiple life sentences and there was no imminent prospect of him being released – "furthermore his identity has not only been public but received massive previous publicity". Anyone interested in finding out about his crimes could easily do so on the internet, Vassall-Adams said. Not allowing the nature of his victims to be identified "masked" what the case was about, which was the Parole Board's refusal to recommend that he was fit for open conditions. "Understanding the nature of the victims and the terrible treatment meted out to them gives a completely different complexion to this whole case," Vassall-Adams added.

Appeal Against use of Unauthorized Finger Print Scanner - Dismissed

PPS Northern Ireland (Respondent) v McKee & Elliott (APs): Background to the appeals: The issue in the appeal is: what are the statutory consequences if the fingerprints of a defendant have been taken in a police station in Northern Ireland by an electronic device for which the legislation required approval from the Secretary of State, when such approval has never been given? In particular, is any evidence which makes use of the fingerprints taken on

such a device inadmissible at the defendant's trial?

The appellants were charged with theft in Northern Ireland. The offence was alleged to have taken place on 6 October 2007. A stack of building materials had been found removed from the owner's depot apparently ready for collection by thieves. The appellants were found nearby in a van but said they were waiting there innocently. They were arrested and their fingerprints were taken at the police station using an electronic fingerprint scanner called 'Livescan'. This machine has been commonly used by police in the UK, including in Northern Ireland, for a number of years. A fingerprint matching Elliott's left thumb was found on packaging of the building materials.

Article 61 of the Police and Criminal Evidence (Northern Ireland) Order sets out the powers of the police to take fingerprints without consent. Between 1 March 2007 and 12 January 2010 article 61(8B) provided that where a person's fingerprints are taken electronically, they may only be taken using "such devices, as the Secretary of State has approved for the purpose of electronic fingerprinting". Due to an oversight no approval was ever given to any device (including Livescan) until it was belatedly provided on 29 March 2009. Article 61(8B) was later repealed by the Policing and Crime Act 2009. Therefore at the time the fingerprints were taken from the appellants there was no approval for the Livescan machine in breach of article 61 (8B).

The appellants were convicted at trial and no issue over the fingerprints was taken. After the lack of approval for the Livescan device was noticed the appellants appealed to the County Court which, after a full re-hearing, declared the fingerprint evidence inadmissible and acquitted the appellants. The Public Prosecution Service appealed to the Court of Appeal who allowed the appeal and reinstated the appellants' convictions. The appellants' primary argument before the Supreme Court and the courts below was that the lack of approval for the Livescan device meant that the fingerprints obtained with it were automatically inadmissible at the appellants' trial.

Reasons for the judgment: The difficulty with the appellants' argument is that the statute says nothing about the potential consequences of failure to use an approved device. This is despite the fact that there are numerous examples of other statutes where such consequences are expressly spelled out, such as in relation to obtaining specimens of breath for road traffic offences [8].

There is a well understood common law rule that evidence which has been obtained unlawfully does not automatically become inadmissible. It is clear that this rule extends equally to evidence created by an unlawful process as it does to existing material uncovered by unlawful process. The common law background to the legislation (article 61 (8B)) shows that inadmissibility of the fingerprints here under consideration cannot possibly simply follow from the existence of the requirement for device approval [9].

It is not correct to say that article 61 (8B) would have no purpose unless fingerprints obtained from unapproved devices were inadmissible at trial. A defendant who was asked to give a fingerprint on an unapproved device could lawfully refuse to do so. While, if such devices were found to be routinely in use by police, there would be no defence to an application for judicial review in which their unlawfulness could be declared and further use prohibited [10].

The appellants relied on the rule that the product of a breathalyser test was inadmissible unless the testing device was an approved one. However, the requirement for approval of fingerprint devices is not analogous to that in cases of breath tests or speed guns. The latter are methods of measuring something that cannot be re-measured, they capture a snapshot of the suspects activity and are often the offence itself i.e. being found to be over the prescribed limit of alcohol at the time of driving. The fingerprints on the other hand could be reproduced at any time afterwards, and would be the same. If the Livescan readings were disputed they could readily be independently

checked for accuracy and further fingerprints taken by a different method. The ease of which this could be done shows there was no need for Parliament to stipulate that the product of unapproved fingerprint readers should be inadmissible. Further, no challenge was ever made by the appellants to the accuracy of the fingerprints taken by the Livescan device [15].

The background material to the legislation shown to the Court further shows that the purpose of the requirement for device approval was not principally the protection of the individual against the risk of conviction on inaccurate evidence [16]. Relevant parts of the Protection for Freedoms Act 2012 and Criminal Justice (Northern Ireland) Act 2013 regarding fingerprints that have yet to come into force further support the construction of the legislation chosen by the Supreme Court in this case as, where required, express provision is made for evidence to be inadmissible [18]. References in square brackets are to paragraphs in the judgment

IPCC Issues Findings From Further Investigation Into Death Of Maria Stubbings

Essex Police missed a large number of opportunities to proactively safeguard Maria Stubbings and her son, and failed to monitor the escalating risk or to detain Marc Chivers before her murder at his hands in December 2008, a further investigation by the Independent Police Complaints Commission (IPCC) has found. Despite having accurately recognised the risks and dangers in July that year in responding effectively to an assault on Maria by Chivers, already a convicted murderer, Essex Police then failed to undertake rigorous risk assessment and put safety measures in place on his release from prison two months before the murder.

The investigation has found a case to answer for misconduct against three police officers, but the failings of Essex Police at the time to protect Ms Stubbings and her son went far wider than the inaction of individual officers. IPCC Commissioner Rachel Cerfontyne said: "The actions taken by the officers in response to the assault in July demonstrate a sound understanding of domestic abuse and risk, and they were able to put in place a robust safety plan, even though there were no statutory restrictions or supervision of Chivers. The key issue is that the approach taken in July was not sustained; there was no continuity or consideration of ongoing risk. "It is ironic that Ms Stubbings was offered the most support and protection while Chivers was in prison, when the risk from him was minimal. When he was released both she and her son were left completely vulnerable. All the risks that were there when Ms Stubbings called the police in July still existed after his release; indeed arguably the risk was even higher, as Chivers had just served several months in prison as a result of her complaint. Ms Stubbings was then murdered by Chivers and her son has endured profound and ongoing trauma as a result of his mother's brutal death. "Essex Police have made improvements in domestic abuse policies and procedures since 2008. It is also true that Chivers' previous murder conviction outside the UK reduced the powers available to the police. However, in 2008 there were domestic abuse policies and procedures in place and specialist units. Knowing of Ms Stubbings' vulnerability and the potentially serious risk posed by Chivers, Essex Police should have been far more proactive in order to try and ensure that Ms Stubbings was protected and her murder prevented." An opportunity for Essex Police to become aware of renewed contact between Ms Stubbings and Chivers was missed when a telephone call from a friend in early December attempting to report concern for Maria's welfare was poorly dealt with.

The IPCC completed a first independent investigation into the death of Maria Stubbings in 2010 following a referral from Essex Police. Due to inaccuracies by the IPCC in the resulting report which subsequently came to light, IPCC Commissioner Rachel Cerfontyne decided that there should be a second independent investigation. In addition, Ms Stubbings' family con-