of sexual assault where in fact no such assault actually took place.

Returning to the Ovenden case directly: On leaving court, Ovenden was confronted by representatives of both the media and child protection charities. One representative suggested that Ovenden considered himself to be the only person who was right and everybody else was wrong. In a follow-up comment, Ovenden suggested that he was "…probably 20 times more intelligent than most people", a comment that has not done him any favours in terms of his ongoing relationship with the public but which is probably true when one looks at the appalling quality of the juries thrown together to judge what are inevitably sensitive and difficult cases.

It is also perhaps significant that many of the leading galleries in the UK have removed Ovenden's work from public view. They have done this not because they consider the works to be indecent (they have been displaying them for 40 years) but because they are afraid of being prosecuted for displaying works of art that they have now effectively been told are indecent by association.

The hypocritical agenda of child protection charities – supported by the equally misguided feminist grab for power that supports them – threatens to undermine not only the cultural DNA of Britain but also runs the risk of ridiculing decisions made by perfectly competent and experienced judges who know a great deal more about the law and any particular case than does any member of any critical charitable body or lobby group.

Perhaps though, the greatest and most tragic hypocrisy of all demonstrated by these self-serving protection groups is that by ridiculing and criticising decisions of the court, they undermine the claims of genuine victims whilst simultaneously keeping the door open for those who wish to make a quick buck at the expense of great lives, great reputations – and human compassion.

Three Goats Arrested for Damaging Police Car *Times of India 05/06/13*

Said goats were grabbed and placed in a cage after Indian authorities became annoyed with their alleged persistent vandalism. The final straw came when the goats damaged a brand new police car, "We got the vehicle two days ago," one of the officers said. An official complaint said 12 goats had climbed on the vehicle, causing it to be dented and 'damaging the wipers and glass, and scratching the paint of the bonnet and body'.

When police arrived they only found a trio of goats but quickly identified the owner as 37-year-old Mary Arogynathan. The authorities filed a complaint against the woman. The animals were eventually released to the Society for Prevention of Cruelty to Animals (SPCA). In the defence of the owner, the police may want to consider not having their car park next to a place where goats graze.

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.

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

MOJUK: Newsletter 'Inside Out' No 429 13/06/2013)

Investigation Into Leeds Police Van Death Launched by IPCC

The Independent Police Complaints Commission (IPCC) is to investigate the circumstances surrounding the death of a man who was struck by a police vehicle in a park. West Yorkshire Police told the IPCC that Donald Bennett, 83, died after one of its vehicles collided with a man in Pudsey Park near Leeds. Early enquiries made by the IPCC suggest that a police officer was responding to reports of a disturbance involving young people at the park and that the van they arrived in was left unattended before it struck Mr Bennett. The force later referred the incident, which happened on Saturday, 1 June at about 2.15pm, to the IPCC and an IPCC investigator was sent to the scene. An independent IPCC investigation was launched shortly afterwards.

Who Said All Coppers are Bastards - These Cops Ain't

Police officers brought a busy motorway to a standstill in Germany to rescue six helpless orphaned ducklings. Worried motorists dialed 999 in Oberpfalz when they spotted the days-old youngsters stranded on the central reservation. The family had been on their way to a nearby river when the mother duck was run over by a lorry. Patrolman Berhard Sommer said: "We just couldn't leave them there so we temporarily closed the road so could retrieve them safely." The traffic cop - who carried the brood of ducklings away in his cap - added: "I took them home for a while and put them in the bath before we could find a new home for them. "They're at waterfowl refuge now and very safe and happy," he added.

Crime Victims Win Right To Appeal If Suspects Are Not Prosecuted

Victims of crimes not pursued by the authorities will no longer be treated as forgotten "bystanders" in the criminal justice system under plans to give them the right to appeal decisions not to prosecute suspects. The Director of Public Prosecutions, Keir Starmer QC, has launched a consultation on proposals for the new Victims' Right to Review policy, which covers any decision taken by the Crown Prosecution Service not to charge a suspect. The new policy was prompted by a Court of Appeal ruling in 2011, which reversed a CPS decision not to bring sexual assault charges against a disabled man. Mr Starmer said: "The criminal justice system historically treated victims as bystanders and accordingly gave them little say in their cases... Refusing to admit mistakes can seriously undermine public trust in the criminal justice system." Any victim of crime, including bereaved family members, will now be able to ask the CPS to re-examine a case following such decisions. Indpendent, 05/06/13

18 Months for Knocking of Judges Wig

A fitness instructor who attacked a judge and knocked off his wig has been jailed for 18 months for contempt of court. Paul Graham, raced from the public gallery and vaulted over a gate before throwing punches at Judge John Devaux at Ipswich Crown Court , Devaux had just sentenced his brother, Philip Graham, to 30 months in prison for causing death by dangerous driving. Appearing in handcuffs before Judge David Goodin, he admitted contempt. He was flanked in the dock by three security guards and an extra guard stood by the exit.

Nurse Cleared in Stepping Hill Hospital Poisoning Investigation to Sue Police

Rebecca Leighton, a nurse who was arrested and then later freed over the alleged poisoning deaths of hospital patients is to sue the police. She spent six weeks in custody after being charged in July 2011 over the contamination of saline bags with insulin at Stepping Hill Hospital in Stockport. 22 people were poisoned and eight died. She was cleared of wrongdoing when prosecutors said there was not enough evidence. A Filipino nurse, Victorino Chua, 46, remains on police bail after being arrested on suspicion of murder. Ms Leighton is suing Greater Manchester Police for up to £100,000 after officers allegedly gave the public access to her private Facebook account and leaked her name to the media. She says the publicity led to her being held in custody for her own safety and also affected future job prospects. She was sacked by the hospital after she admitted stealing painkillers and antibiotics.

Iulian Popescu v. Romania (no. 24999/04) - Violation of Article 34

The applicant, Iulian Popescu, is a Romanian national who was born in in 1953 and lives in Bucharest. He was convicted of aiding and abetting an aggravated theft and sentenced to four years' imprisonment in a judgment eventually upheld in July 2004. Relying in particular on Article 34 (right of individual petition), he complained of being unable to obtain documents from his criminal file which had been relevant for his application with the European Court of Human Rights. Just satisfaction: no claim for just satisfaction made by the applicant

Hanu v. Romania (no. 10890/04) - Violation of Article 6 § 1

The applicant, Marius Hanu, is a Romanian national who was born in 1973 and lives in Constanta (Romania). Charged with bribery and abuse of power, Mr Hanu was initially acquitted by the first-instance court but subsequently convicted and sentenced to three years' imprisonment suspended in a judgment eventually upheld in July 2003. Relying on Article 6 § 1 (right to a fair trial), he complained that the proceedings against him had been unfair because the Romanian courts had not examined the evidence directly and had reached completely different conclusions on the basis of the same evidence. Just satisfaction: EUR 3,000 (non-pecuniary damage) and EUR 180 (costs and expenses)

Marian McGlinchey (AKA Marian Price) **Released from Custody** *BBC New 30/05/13*

"This comes after being held for over two years in isolation on the basis of Closed Material Proceedings. The high-profile Irish republican Marian McGlinchey, formerly Price, has been released from custody after more than two years. The convicted IRA bomber had been in custody since May 2011, when the former Northern Ireland Secretary, Owen Paterson, revoked her licence. She was moved from Hydebank Prison to a hospital on medical advice last June. She is now at home with her family. When she was first sent back to prison, Mr Paterson said he made the decision to revoke her licence because the threat she posed had "significantly increased". Marian McGlinchey has been a leading member of the political wing of the dissident republican group, the Real IRA. She was arrested two years ago after she held the text of a speech for a masked man at a Real IRA rally in Londonderry, during which the man made threats against the security forces. She was later charged with having supplied a phone used during the murders of soldiers Mark Quinsey and Patrick Azimkar, who were shot dead outside Massereene Army base in County Antrim. Her deteriorating health led to her being transferred from prison to hospital last year. The charges against her - providing a mobile telephone for a terrorist purpose and aiding and abetting a meeting in support of an illegal organisation - still stand. She had been granted bail on those charges at the time but was taken back to jail due to Mr Paterson's decision to revoke her licence.

what the NSPCC in the comfort of their expensive London offices even if our weak politicians are incapable of staving off attacks from the largest child protection charity in the UK which -according to its own financial reports – has never directly given a penny to children, preferring instead to engage in lobbying, campaigning, highly expensive television advertising and paying its own staff exorbitant and inflated salaries.

The point TheOpinionSite.org wishes to make is a simple one: When those accused of child sex offences are convicted, the charities, police and CPS all rushed to the front to throw in their pennyworth of comment about "brave victims", "despicable acts of depravity", "the defendant's own sexual gratification" and how bad a person the defendant is or was; and how it is absolutely essential for the survival of children everywhere that the defendant should be socially annihilated and preferably left in a deep, dark hole to rot forever.

In the case of child protection charities, these comments are usually closely followed by an appeal for donations; nothing new there then. When a defendant is acquitted or given a non-custodial sentence, the police and CPS are nowhere to be seen and all the charity groups can do is whine because they didn't get their own way.

In other words, when defendants are convicted the charities, police and CPS like to twist the knife as much as possible in order to gain as much favourable publicity as they can for their own cause whereas, should the defendant be acquitted or receive a non-custodial sentence, the same organisations immediately condemn the judge, the system or even in some cases, the jury for simply doing the right thing. In short, all these organisations that depend on the fear and prosecution of alleged child abuse for their financial income and for their survival are only happy when things go their way – whether the defendant is guilty or not.

When Pyburn used the words, "getting off", what she appears to be suggesting that whatever the evidence may or may not show, whatever the jury may or may not think and whatever the truth may or may not be, alleged "victims" never make false accusations, are always to be believed and therefore anyone charged with a sexual offence against a child must always be guilty.

FASO, a voluntary organisation dedicated to supporting anyone affected by a false allegation of abuse, would beg to differ with Ms Pyburn's view. They sum up the situation very concisely: "Law-abiding people like you are invaded or convicted on the word of a "victim" who either holds a grudge against you, or else accuses you while barely knowing you, because substantial financial compensation is quickly paid out to "victims" whether you are proved guilty or not."

Do not think for one moment that TheOpinionSite.org is suggesting that child abuse never takes place; we all know that it does and how harmful its long-term effects can be on both individuals and those around them. There is no doubt however that since the Savile revelations – and even possibly before then - the number of false allegations made against individuals, either for the purposes of revenge or monetary gain, have increased. For those individuals and organisations that still maintain that people never make false allegations – the view held by all the wealthiest child protection charities, the police and the CPS – a quick look at the latest newsletter of safari-uk.org will show that this faith in the total innocence of alleged victims is completely misplaced.(Link at the end of this article) On the first page of their current newsletter you will find a comprehensive list of recent cases where people have both been cleared of allegations brought before the court together with cases which have resulted in the jailing of individuals who have indeed made false, serious and highly damaging allegations

Arguably, these cases show the power of the Human Rights Act more than any others since it came into force in 2000. Of course, there may be an appeal, but as things stand those interested in international human rights will be watching very closely indeed.

Criticism Of Ovenden Sentence By Charities Undermines Child Protection

Raymond Peytors - theopinionsite.org

Criticism of judges does not protect children: The Graham Ovenden case – recently concluded with Mr Ovenden walking free from court with a suspended sentence – has thrown into sharp relief the contempt shared by child abuse charities when decisions in sensitive court cases do not go their way. TheOpinionSite.org believes that such criticisms of the judge's decision from representatives of many so-called "respected" organisations is one of the clearest examples of dangerous hypocrisy that one is likely ever to find in today's skewed, distorted, unreal and risk averse Britain.

Ovenden, a world renowned artist whose works have been displayed around the world for some 40 years now, was convicted of the indecent assault of children who posed for him in both paintings and photographs. The judge in the case, Judge Graham Cottle declared Ovenden to "no longer be a risk to children", a remark that caused near hysteria in child protection circles, even though the judge had heard all the evidence and those representing child protection charities had not.

Peter Saunders, of the National Association for People Abused in Childhood, said: "It's an absolutely outrageous decision."

Siobhan Pyburn, founder of The Phoenix Project for sexual abuse victims, said: "In many historic child abuse cases offenders are getting off simply because of their age."

It is worth examining Pyburn's statement in more detail, in particular her use of the words, "getting off", a phrase that often appears when a defendant charged with child sex offences is either found to be innocent or given a non-custodial sentence. What Pyburn is actually suggesting is that the judge is totally wrong and she of course is totally right. TheOpinionSite.org would suggest however that there are not many people who would wish to be judged by a person dedicated to a singular cause and whose financial income depends on that cause.

Peter Saunders is not much better. The fact that Mr Saunders believes that the judge's decision in this case was "an absolutely outrageous decision" is of no consequence whatsoever to anyone other than those who benefit financially from his charity, NAPAC. In fact, one wonders whether or not Mr Saunders should be criticising anyone at all. Readers may be interested in an interesting analysis of Peter Saunders which possibly demonstrates that he is not always accurate (some may say "truthful") in what he says or, at the very least, appears to possibly gets his facts and his dates confused. (See link at the end of this article)

The ubiquitous NSPCC couldn't resist jumping on the bandwagon either: David Tucker, the NSPCC's associate head of policy, said: "The judge in this case has clearly found it difficult balancing the historical nature of these offences with the need to send out a strong message that sexual offences cannot be tolerated under any circumstances. We would be concerned if the leniency shown here was followed in other cases."

Mr Tucker's rather grand title of "associate head of policy" immediately cast doubt on any words that may come out of his mouth; after all, the policy of the NSPCC is not law, even if they would like it to be.

Given how much money the suck from gullible members of the public, who gives a damn

Burger King Thieves' Getaway Car Stolen *Metro News, 31st May 2013*

A pair of criminals were left without a getaway car after it was stolen by an employee of the fast food restaurant they were attempting to rob. The armed men had just raided a branch of Burger King in Stockton, California, when they found themselves in a bit of a pickle. They had fled the restaurant and were ready to make their getaway but couldn't locate their vehicle. It turned out it had been taken by a quick-thinking employee who saw it unattended and decided to drive it away. The worker had initially gone out back to alert authorities to the robbery and was shocked to find the criminals had been stupid enough to leave their car running. He then proceeded to drive the vehicle around the corner, which obviously caused considerable confusion for the thieves once they had stepped out. Jeremy Lovitt, 23, and Gabriel Gonzalez, 19 were arrested by police at the scene.

Thomas Kingston,Thomas Reynolds,Terence O'Connell to Court of Appeal

The CCRC has referred to the Court of Appeal the convictions of Thomas Kingston, Thomas Reynolds and Terence O'Connell. They were tried together at the Central Criminal Court on 4th August 2000. All three pleaded not guilty. Messrs Kingston and Reynolds were convicted of conspiracy to supply a Class B controlled drug (amphetamine) and were sentenced to three-and-a-half years' imprisonment. Mr O'Connell was convicted of doing an act tending and intended to pervert the course of public justice and was sentenced to two years' imprisonment. At the time of the offences for which they were convicted, all three men were police officers serving with the South East Regional Crime Squad (SERCS) of the Metropolitan Police Service. In April 2001 their appeals against conviction were heard jointly with those of two other former SERCS officers, Robert Clark and Christopher Drury. All the appeals were dismissed. Kingston, Reynolds and O'Connell applied to the Commission for a review of their convictions in March 2011. The referrals are made on the grounds that since Kingston, Reynolds and O'Connell's trial & appeal, new evidence has come to light which gives rise to a real possibility that the Court of Appeal will not uphold their convictions. New evidence relates to post-trial allegations made by Neil Putnam, a key prosecution witness in the case.

In a BBC TV documentary called "The Boys Who Killed Stephen Lawrence", which was broadcast in 2006, Mr Putnam alleged that prior to his arrest, he was told by DS Davidson (a former SERCS officer) of a corrupt link between DS Davidson and Clifford Norris. Mr Norris's son, David Norris, had at that time been suspected of involvement in the murder of Stephen Lawrence and has since then been convicted of that offence. Mr Putnam also alleged that in 1998 he told MPS officers of this link and that they failed to act upon it. Although later investigations by the Independent Police Complaints Commission and the MPS have found that Mr Putnam's allegations are unsubstantiated, he has repeated them on a number of occasions.

The Commission has concluded that this new evidence raises substantial doubts as regards Mr Putnam's credibility and reliability and that, as a result, there is a real possibility that the Court of Appeal will conclude that Mr Putnam's evidence at Messrs Kingston, Reynolds and O'Connell's trial can no longer safely be relied upon and that their convictions are in consequence unsafe and should be quashed.

The purpose of the Commission's review has solely been to establish whether or not there is new evidence which gives rise to a real possibility that Messrs Kingston, Reynolds and O'Connell's convictions will be quashed. The Commission has not itself specifically investigated the issue of whether there was corruption in the initial Stephen Lawrence murder investigation. It is right to say, however, that during the course of its review it has found nothing

which lends support to the allegations which Mr Putnam has made.

Defendents are represented by Kaim Todner Solicitors of 11 Bolt Court, London. EC4A 3DQ.

Notes: Drury and Clark case: The Commission referred the convictions of Christopher Drury and Robert Clark to the Court of Appeal in March 2009. Messrs Drury and Clark were co-defendants in a trial at the Central Criminal Court in November 1999. Mr Drury was convicted of conspiracy to supply a class B drug and two counts of perverting the course of public justice. He was sentenced to a total of 11 years imprisonment. His sentence was later varied on appeal to eight years. Mr Clark was convicted of two counts of conspiracy to supply Class B drugs and two counts of perverting the course of public justice. He was sentenced to a total of twelve years in prison. His sentence was later varied on appeal to ten years.

At the time of the offences for which they were convicted, Messrs Drury and Clark were police officers serving with the South East Regional Crime Squad. Both men were granted leave to appeal against their convictions and sentences in February 2001. In April 2001 their appeals against conviction were dismissed by the Court of Appeal. Both appeals against sentence led to their sentences being reduced.

Mr Drury applied to the Criminal Cases Review Commission in 2001 for a review of his sentence. The Commission did not refer the matter to the Court of Appeal. Mr Drury and Mr Clark then made a joint application to the Commission in 2002. The Commission decided to refer their convictions to the Court of Appeal because it was of the opinion that non-disclosure of prosecution material may have significantly disadvantaged the defence such as to raise a real possibility that the convictions would not be upheld on appeal.

In 2010, the Court of Appeal quashed their convictions and ordered a retrial on some of the counts on the indictment. In October 2011, Messrs Clark and Drury were formally acquitted of all charges after the Crown offered no evidence at the retrial.

South Yorkshire Police Death in Custody IPCC 30 May 2013

The Independent Police Complaints Commission is investigating all the circumstances surrounding the arrest and detention of a man who died while in South Yorkshire Police custody. Neil Budziszewski, 42, of no fixed address, died in Ecclesfield Police Station in Sheffield on 3 May 2013. Mr Budziszewski had been arrested the previous day on suspicion of theft and was detained overnight pending his appearance at Sheffield Magistrates Court. However at around 9.20am on 3 May Mr Budziszewski was found collapsed in his cell. Paramedics attended but he was pronounced dead shortly after 10am.

The IPCC responded to a referral by South Yorkshire Police by deploying investigators and beginning an independent investigation. The investigation will examine all the circumstances surrounding Mr Budziszewski's arrest and detention, with a particular focus on what welfare and medical assistance was provided to him during his detention. CCTV footage from the custody suite has been seized by investigators and is being analysed An inquest was opened and adjourned at Sheffield Coroner's Court on 8 May. A cause of death has not yet been established and the results of toxicology tests are awaited.

IPCC Commissioner Cindy Butts said: "Our investigators have met with Mr Budziszewski's partner and next of kin and my sympathies go out to them at this difficult time. Mr Budziszewski died while being detained by the police and it is important that an independent investigation is conducted to establish the facts. Our focus will be on his time in custody and how his welfare and medical needs were addressed, and whether policies and procedures were followed.

tigative and prosecutorial functions, the task of investigating and inquiring into the very large number of deaths occurring at many different times and in different locations requires a new approach if it is to be achieved in a timely, cost effective and proportionate manner that discharges the very important investigative duties imposed upon the State. We set out our views at paragraphs 213 to 221. We are also satisfied that reconsideration is needed of the way in which the duty to assess the systemic issues and to take account of lessons learnt is discharged in a way that provides greater transparency and public accountability. We set out our views at paragraphs 222 to 225.

In short, what the High Court is seeking is that if – and only if – there is found to be no realistic prospect of prosecution, deaths in custody are investigated by a "form of inquisitorial inquiry derived from the model used by coroners" which "would have many advantages over an overarching public inquiry". So there is unlikely at this stage to be a further public inquiry, although the individual inquest-like procedures convened for each death will be not a million miles away from that.

As to cross-examination and state-funded legal representation, well that remains to be seen: There is no reason why the burden undertaken by those appointed should not include an obligation to conduct his or her own searching examination of the witnesses; some assistance would be required. This form of inquisitorial inquiry has worked effectively in many forms of inquiry, such as Department of Trade Inspections. There is no need for examination or cross examination by separate counsel to the inquiry or by parties who might be interested.… As such an inquiry would only be held once it was determined that there was no realistic possibility of a prosecution, the legal assistance to those being asked to give evidence could be calibrated accordingly. For example, there would be no reason for the families of those whose deaths were being investigated to have extensive legal representation. The examination of witnesses would be conducted entirely by the person conducting the inquiry. The families would simply require some legal help in understanding the procedure and when giving their evidence; such help would, we envisage, be provided in Iraq.

This sounds like a judge-led or "inquisitor" approach which is uncommon in our jurisdiction but more so in Continental Europe. The court made clear that the hearings would be open to the public and Iraqi witnesses would be expected to give evidence over video link in order to save costs.

As to wider systemic issues, the individual inquiries would be overseen by a judge and ultimately perhaps by a Parliamentary committee, which could "scrutinise the wider or systemic issues and the recommendations made" [224].

The above applies to deaths in custody. As to mistreatment/torture allegations, of which there are presently around 700-800 cases, the Court said it was "impressed" by the Secretary of State's current approach but that Once it is determined that there are cases in which there will be no prosecution, the procedure for Article 3 cases should be reviewed by the Secretary of State in the light of the experience in the Article 2 cases; it may well be possible to conduct the inquisitorial inquiry into these cases by taking a sample of the more serious cases.(230)

A lot left to do: Plainly, there is a huge amount still left to do in order for the UK to satisfy its investigative duties under Articles 2 and 3 of the European Convention on Human Rights. The Court appears to have found a kind of compromise between the status quo (the IHAT investigation, which in its previous incarnation was found to be insufficiently independent) and a full-blown public inquiry. The inquisitorial approach to individual cases will be in many ways unprecedented and should provide a very important case study in international justice.

the court made clear how unprecedented this investigative task is, with up to around 1,000 individuals involved and allegations of the most serious nature, involving "murder, manslaughter, the wilful infliction of serious bodily injury, sexual indignities, cruel inhuman and degrading treatment and large scale violation of international humanitarian law".

The Court summarised it's judgment as follows: In the present case, the claimants are Iraqi citizens who claim they were ill-treated by the British armed forces in Iraq or are relatives of those who were killed by the British armed forces. Although they have brought separate actions for compensation (many of which have been compromised), they brought judicial review proceedings in February 2010 claiming that the investigation established by the defendant, the Secretary of State for Defence (the Secretary of State), was neither independent nor in adequate compliance with the investigative duties under Articles 2 and 3 of the Human Rights Convention. They succeeded in establishing that the investigation was not sufficiently independent in those proceedings. The Secretary of State reconstituted the investigation; in this second set of proceedings, they contended that, as reconstituted, it is still not independent and they seek a more far reaching inquiry. In the course of the proceedings it became clear we had to hear oral evidence in relation to the issue on independence; it also became clear that issues of very substantial difficulty arose as to the way in which the investigative duties should be discharged given the unprecedented nature and the size of the task. The Strasbourg Court has determined that the scope of the Convention extends to a number of circumstances in which deaths and serious ill treatment are alleged to have occurred involving the British forces in Iraq in the period 2003-09 [Al-Skeini/Al-Jedda]. On the basis of the Strasbourg Court's decisions there were thought at the turn of the year to be about 40 cases where it is accepted the investigative duty into deaths under Article 2 and 135 cases where the duty under Article 3 arises. These figures are now much greater. We were told that there might be as many as 150-160 cases involving death and 700-800 cases involving mistreatment in breach of Article 3, though the precise numbers that require investigation will be determined by decisions as to the scope of the application of the Convention to the activities undertaken by the British armed forces in Iraq. This judgment makes no decision on territorial scope.

The duty that the Secretary of State now has to discharge as a result of the Strasbourg decisions is therefore unprecedented as it covers the operations of the British armed forces for a six year period whilst they invaded and occupied Iraq as part of the Coalition and subsequent arrangements. The allegations made are allegations of the most serious kind involving murder, manslaughter, the wilful infliction of serious bodily injury, sexual indignities, cruel inhuman and degrading treatment and large scale violation of international humanitarian law. The incidents in relation to which the allegations arise are fact specific. What happened is often unclear and the subject of dispute. Many of the incidents occurred several years ago; the Iraqi witnesses are largely residents of Iraq. Some incidents have been the subject of prosecution and more may be. The only public inquiry that has been completed, Baha Mousa, has cost £25m and the second, Al Sweady, has cost more than £17m so far. The other investigations established by the Secretary of State are costing about £7.5m a year. We are entirely satisfied that the Secretary of State has been assiduous and conscientious in his attempts to try and discharge the duties imposed on the State in these unprecedented circumstances, but it became apparent in the course of the proceedings that some further reconsideration must be given. Although we are satisfied, for the reasons we set out at paragraphs 108-125, that IHAT has now been structured in such a way that it can independently carry out its inves-

Killer Blows to Justice *Frances Webber for Institute of Race Relations*

In the blizzard of coalition measures wreaking destruction on living standards, the justice ministry's proposals on legal aid will once again bear down hardest on poor BME, Muslim and migrant communities. From the introduction of a residence test for civil legal aid, to the withdrawal of public funding for challenges to mistreatment in prison and for the preparation of judicial reviews, the huge fees cut in immigration and asylum appeals, to the massive changes of funding in criminal cases including the introduction of price-competitive contracting and a fee structure encouraging pressure on defendants to plead guilty, the proposals in the ministry of justice consultation paper target those in the greatest need of public funding.

Criminal legal aid – from Silk to the 'Mclawyer': The proposals which have brought criminal lawyers out on strike, and protesting on the streets of London and other major cities, relate to price-competitive tendering for criminal legal services contracts. They are designed to slash £220 million from the criminal legal aid budget on top of the £320 million cuts to civil legal aid in April. The ministry of justice proposes to replace 1,600 high-street and specialist criminal defence firms with 400 large contractors which need not have any experience of delivering legal services, and which will be selected to provide regional criminal legal services on the basis of price. Tenders must be at least 17.5 per cent lower than current contracts, and the lowest bidders will win. The trucking firm Eddie Stobart's legal subsidiary, Stobart Barristers, which cuts out solicitors, is a leading contender for the contracts. The ministry does not dispute that the replacement of specialist criminal defence lawyers by cut-price lawyers will result in a fall in standards of legal services, which contracts will require to be merely 'adequate'. The proposals will also do away with legally-aided defendants' right to a legal aid solicitor of their choice. As lawyer and former Camden Council leader Raj Chada observed, 'the state prosecutes you, the state will allocate the lawyer to defend you … it is a proposal worthy of the Soviet Union at its most dictatorial'.

The loss of choice of lawyer for those charged with criminal offences will lead to the destruction of the lawyer-client relationship. This relationship, and the importance of complete trust and confidence, has been acknowledged by the European Court of Human Rights as the foundation of a practical and effective right to a fair trial, protected by Article 6 of the Human Rights Convention. Leading judges in countries with a common-law tradition such as Canada have also referred to this: 'There should be no room for doubt about a counsel's loyalty and dedication to the client's case.'

For no-one is this more important than for defendants charged with politically or socially sensitive crimes, such as those charged with terrorism offences – from the Irish in the 1970s to young Muslims in the past decade – or black youths charged with offences arising out of the riots, or charged with knife crime as part of a 'joint enterprise'. It is of paramount importance to the system of justice that such defendants can be absolutely confident that their 'brief' is doing his or her utmost to represent the client's case fairly and vigorously. It's not hard to foresee the disastrous consequences if no such confidence exists, if defendants know that they can expect 'conveyor-belt' representation by poorly paid, overworked, inexperienced and uncommitted corporate employees ('Mclawyers') who do not expect to see the client again after the trial ends.

This disastrous destruction of confidence is to be exacerbated by a 'standard fee' structure which will pay the lawyer the same for a guilty plea as for a three-day trial, building in huge incentives to pressure the client to plead guilty. No defendant advised to plead guilty by a 'Mclawyer' can be confident that the advice is legally sound and not motivated by the profit incentive.

At a mass protest-cum-funeral procession outside parliament on 22 May for the immi-

nent death of legal aid, complete with coffin, undertaker in black-feathered hat and New Orleans jazz band and attended by over a thousand lawyers, Clive Stafford-Smith of Reprieve warned that the proposals would lead to the sort of sub-standard justice delivered by sub-minimum wage public defenders in the US. Gerry Conlon of the Guildford Four, who spent fifteen years in prison for alleged IRA terrorism before being cleared in 1989, pointed out that he would not have been released without the efforts of dedicated legal aid lawyers, and members of Jean Charles de Menezes' family reflected that they would never have got justice. Courtenay Griffiths QC added that many small non-white firms will be wiped out, reversing the strides towards more BME representation in the legal profession and making the courtroom an even whiter and more hostile place for black defendants.

Civil legal aid: the residence test and impunity: While it is the proposed changes to criminal legal aid which have had the lion's share of media coverage, the proposals to cut civil legal aid, coming on top of the drastic cuts which came into force in April, will have an equally grave impact. The proposed residence test will restrict foreigners' access to legal aid for civil cases to those legally resident in the UK for a year or more and to asylum seekers. The restrictions will mean that undocumented migrants, and recently arrived legal migrants, will have no legal aid to challenge any kind of illegal treatment, whether wrongful refusal to provide medical treatment or accommodation, other illegal and abusive actions by employers, landlords, health authorities or police, or months or years of unlawful detention by the Home Office.

The Human Rights Convention requires that everyone who is detained must have access to a court to challenge their detention, and the European Human Rights Court recognises that public funding may be necessary to enable rights to be practical and effective, rather than theoretical and illusory. It is likely that the Court will rule the withholding of legal aid from foreigners in such a situation to be unlawful – if the UK is still a subscriber to the European human rights system by then.[5] To human rights lawyers, it is extraordinary, and shameful, that such restrictions are being proposed in the twenty-first century, by the justice minister of the nation that boasts the writ of habeas corpus, a common-law remedy requiring those detaining someone to prove the detention lawful, which pre-dates the 1215 Magna Carta and was used in the 1772 Somersett's case to free a slave from his American masters.

The residence test means no legal aid, either, for those seeking redress for torture by British forces in Iraq, Kenya, Cyprus and elsewhere; no legal aid for those such as the Libyan former dissidents, now in government, alleging British involvement in unlawful rendition – in other words, effective impunity for British state agents involved in the worst forms of international crimes including abduction, murder and torture abroad.

Prisoners' complaints unfunded: Closed institutions, whether prisons, mental hospitals, care homes or immigration removal centres, harbour much unchallenged institutional cruelty, racism and brutality, as undercover investigations often demonstrate. It is particularly important that legal aid is available for inmates to get independent legal advice and help to challenge abuse, and the withholding of legal aid so that prisoners cannot access such independent help leaves them with no redress. The pettiness of the measure is only eclipsed by its stupidity, as it is bound to ratchet up tension in prisons and to make life more difficult for staff as well as inmates. It goes without saying that BME prisoners are over-represented in the criminal justice system, and so will be disproportionately affected.

Wearing down the lawyers: Other proposals make legal aid lawyers do more work for less money. A fee cut of 35 per cent in immigration and asylum appeals, coming on top of a

pended jail sentence despite being convicted of sexually abusing young girls, sends an extremely dangerous message about how seriously the courts take the abuse of girls. At Women's Aid we work closely with the police and CPS to raise awareness of domestic and sexual violence and feel that this low sentence undermines efforts to send a clear message that abuse against women and girls will not be tolerated.

Victims feel unable to disclose abuse when they feel that they will not be believed, and public attitudes play a significant role in this. Low sentencing, regardless of the age of the perpetrator – in this case Ovenden's age was used as a reason why he should not receive a heavier sentence – is likely to affect the number of girls who will come forward and report abuse in the future. Having worked with survivors of abuse who have decided not to press charges against their abuser, we know that the potential sentence the perpetrator could receive plays a key role in their decision as to whether or not to go to court and relive a traumatic experience in public.

Young people need us to help protect them and never to imply that they are to blame for the abuse they experience. Most recently, the children in the Philpott case were described as being "feral" and a product of their parents abusing the benefit system, as opposed to children living in a home where there was severe domestic violence happening. In the Oxford and Telford cases, the 14-year-old girls reporting repeated sexual assaults were dismissed on the basis that they had "chosen" their lifestyle by working in prostitution.

Public awareness and education about what constitutes a healthy relationship and what is abuse is vital for young people. They need to be equipped with this knowledge so that they recognise abuse when it is happening and know where they can seek help and support, as well as making every effort to identify abuse where it is happening and address it. We have to ensure that young people know that abuse is never acceptable, even in the name of art. (Ovenden was investigated twice on charges of creating child pornography, but these cases were rejected on the basis that the photographs were "artistically significant"). However, this needs to be backed by our legal system. We can send out all the information and messages we have, but without perpetrators of abuse being held accountable and sentenced accordingly, we will have limited impact.

High Court Directs Major Overhaul of Iraq Death/Mistreatment Allegations Investigation

Mousa & Ors, R (on the application of) v Secretary of State for Defence [2013] EWHC 1412 (Admin) (24 May 2013) – Read judgment

Remember the Iraq War? Following the 2003 invasion Britain remained in control of Basra, a city in South Eastern Iraq, until withdrawal over six years later on 30 April 2009. 179 British troops died during that period. But despite there over four years having passed since withdrawal, the fallout from the war and occupation is still being resolved by the UK Government and courts. Thousands of Iraqis died in the hostilities or were detained by the British. Thanks to two decisions of the European Court of Human Rights in July 2011 (Al-Skeini and Al-Jedda – our coverage here), the state's duty under the Human Rights Act to investigate deaths and extreme mistreatment applied in Iraq at that time. It is fascinating to see how the UK authorities have been unravelling the extent of that duty. The Baha Mousa Public Inquiry has reported and the Al-Sweady Public Inquiry is ongoing (I acted in the former and still do in the latter). In this major judgment, which may yet be appealed, the High Court has ruled the manner in which the UK Government is investigating deaths and perhaps mistreatment is insufficient to satisfy its investigative duty.

We will cover the case in more detail soon. For the moment, I will reproduce the court's summary/introduction and make a few points afterwards. It should be noted at the outset that

ple choose to provide their names and addresses, rather than face arrest, even if they do not believe they have been acting anti-socially. These powers provide an easy mechanism for the police to gather intelligence data. Netpol observers have reported that the police are using allegations of anti-social behaviour as a blanket means of obtaining protester details, coercing people who decide not to provide that information voluntarily.

Her Majesty's Chief Inspector of Constabulary (HMIC) in their report 'Adapting to Protest' acknowledged the potential for misuse of S50 powers. They stated that: "It is likely that widescale use of Section 50 of the Police Reform Act 2002 by the police when dealing with peaceful protesters would be found to be unlawful." The police should not be using S50 in a blanket way on protest – although this is something they frequently do.

The High Court will hear a judicial review brought by a Legal Observer who had been with a group of ukuncut protesters who were held in a kettle outside the offices of the Xstrata mining company in Panton Street in 2011. All those contained – including Legal Observers – had been forced to provide their names and address, often in front of police cameras, before being allowed to leave. They were told they must provide their details or face arrest under S50 Police Reform Act. In Brighton week before last, police made extensive use of S50 against protesters who had gathered to oppose the right-wing March for England. In what appeared to be a predetermined strategy, individuals stopped and searched or kettled were obliged to give their details, although the police were invariably vague about what 'anti-social behaviour' they were believed to have engaged in.

The gathering of personal information by police has a chilling effect on protest and political freedom. The police are known to collect and retain information to build a personal profile of protesters, and to act pre-emptively on the basis of intelligence held. This creates a climate in which people fear that if they take part in any form of protest activity , they will find themselves with a 'police file'. There is an extensive list of occasions in which the police have made use of S50 powers in relation to lawful and peaceful protest. These include a ukuncut demonstration in Lewes, Sussex, which consisted of protesters holding a tea-party outside a branch of Boots; a sit-down protest to raise issues of homelessness in Cardiff; a spontaneous march by student protesters in Manchester; a group handing out leaflets at the offices of a company involved in the arms trade; a noise protest outside an immigration detention centre and many, many more.

Any power which allows the police to 'round up' people engaged in political protest in order to demand their names and addresses under threat of arrest, is a serious and fundamental threat to civil rights and freedoms. Providing police with the ability to build personal profiles of political demonstrators is a dangerous step to take. Neither should protest ever be treated as 'anti-social behaviour'. People invariably engage in protest because of a sense of social responsibility. Protest should be seen as an important and protected right, not as a unwanted societal problem.

Section 50 of the Police Reform Act has no place in the policing of protest. Its use should be opposed and resisted.

Graham Ovenden's Suspended Sentence Sends a Dangerous Message

When those convicted of sexual abuse walk free it discourages people reporting and testifying against abuse in future. *Polly Neate, guardian.co.uk, Thursday 6 June 2013*

Violence against women is a significant issue in our society, and abuse against women and girls is widespread, with one in four women experiencing domestic violence at some point during their lifetime. The sentencing of the artist Graham Ovenden, who received a sus-

whole decade of cuts in this field, will make the work simply unviable for many if not most of the surviving legal aid immigration and asylum lawyers, leaving many more asylum seekers and other vulnerable people unrepresented on appeal against bad Home Office decisions. Many of them will be at risk of serious, perhaps fatal harm if returned home, but without legal help, will be unable to prove their case; as a number of studies have demonstrated, legal representation makes a big difference to the prospects of success.

Another proposed 'reform' which will have very serious adverse effects on the justice system and on the rule of law in the UK is to make lawyers bear the costs of preparing judicial reviews, only paying them through legal aid if they are granted permission to proceed by a judge. (Judicial review claims are screened by a judge, who only grants permission to 'arguable' claims, ie, those with a good chance of success.)

The system of judicial review of administrative actions has developed over centuries in Britain and has been described by a leading public lawyer as a 'tightly controlled, quick and relatively cheap procedure … seen the world over as one of our greatest legal contributions of recent years'. Through judicial review, delays and denials of justice, detention which is excessive or contrary to policy or not properly supervised or reasoned, unreasonable or unfair decisions by government are challenged. Two-thirds of judicial review cases relate to immigration or asylum cases. They might be about detention; refusal to admit a fresh claim; charter-flight removals of refused asylum seekers to dangerous countries; irregular policy or rule changes; or the revocation of a college's license to teach foreign students. They are all about bringing officials, ministers and government departments to account.

Misleading statistics: Prime minister David Cameron and justice minister Grayling attacked judicial review recently, proposing court fee hikes and tightening deadlines for applications to deter 'unmeritorious' claims. Lawyers criticised their arguments then as bizarre and not based on evidence. Grayling now justifies the new proposal to make lawyers bear costs by recourse to some very misleading statistics. He claimed that only 144 of the 11,359 judicial review claims brought in 2011 were successful.

In fact, as researchers at the Public Law Project have demonstrated, a high proportion (at least a third) of claims are settled, generally by the decision-maker withdrawing the impugned decision, before permission is granted. Another large proportion settle following the grant of permission, so that, taking into account those who win in court (a small number in absolute terms but a good proportion, 40 per cent, of all fully argued cases) and those who achieve the same result through settlement, around half of all judicial review claims result in a successful outcome for claimants.

The fight-back: The package of proposals seem designed to split the lawyers, pitting solicitors against barristers and the private sector against the public, legally aided sector. But so far lawyers are united in anger at the potential destruction of legal aid. In addition to the demonstrations, strikes and public meetings to defend the right to legal aid, called by a large coalition of practitioners' groups, ninety QCs including former Director of Public Prosecutions Lord Macdonald, Baroness Kennedy and Cherie Blair wrote to the Daily Telegraph condemning the Grayling proposals as unjust. 'We are gravely concerned that practical access to justice is now under threat. The cumulative effect of these proposals will seriously undermine the rule of law, and Britain's global reputation for justice … They will leave many of society's most vulnerable people without access to any specialist legal advice and representation.'

Save Legal Aid, is calling for all concerned people (not just lawyers) to keep up

the pressure to get the proposals withdrawn.

Inspection of Youth Offending Work: Blackpool Needs to Improve Further

Progress had been made in youth offending work in Blackpool but needed to improve further & be better managed, said Liz Calderbank, Chief Inspector of Probation (HMCIP), publishing report of a joint inspection of the work of Blackpool Youth Offending Team (YOT). This joint inspection of youth offending work in Blackpool, one of a small number of full joint inspections undertaken by HM CIP with colleagues from the criminal justice/social care/education and health inspectorates. Inspectors focus on 5 key areas: reducing the likelihood of reoffending, protecting the public, protecting children and young people, ensuring that the sentence is served and the effectiveness of governance. This inspection followed a critical core case inspection of the YOT, undertaken by HMI Probation in 2009.

More recently, inspectors were concerned to find that overall: work to reduce reoffending was unsatisfactory, largely due to deficiencies in the assessment which looked at why a young person had committed the offence. Although the delivery of interventions was strong, this was undermined where the assessment had not used information from partner agencies, or identified the correct work to be done or where work was not undertaken in the right order; work to protect the public and actual or potential victims was unsatisfactory. This was mainly due to deficiencies in assessment again, and planning to manage the risk of harm, which then drove through into delivery; work to protect children and young people and make them safer was unsatisfactory. Case managers knew a lot about the children and their lives and were very committed to supporting them, but did not always recognise the things that made them vulnerable to harm, either by others or by their own behaviour; and governance was unsatisfactory. A previously supportive but ineffectual Board was gradually changing to one populated by suitably senior representatives from partner agencies, but at the time of the inspection did not provide sufficient strategic leadership or ensure the delivery of effective outcomes.

However, inspectors were pleased to find that, overall: work to ensure the sentence was served was good. Engagement with children and young people was good and valued by them and their parents/carers. Good efforts were made to ensure that the young person co-operated with the order of the court, and, where necessary, enforcement was carried out promptly.

Inspectors made recommendations to assist Blackpool in its continuing improvement, including: on strengthening the Board, providing a performance management system, improving practice to ensure management of risk of harm to others and vulnerability are central to work undertaken with children and young people, and ensuring initial assessments and their reviews are completed to a sufficient quality. *Ministry of Justice, Thursday, 30/05/13*

Moggy Caught Smuggling Cell Phones Into Russian Prison

Russian prison service said Monday 03/06/13 it had caught a cat being used as a courier to smuggle banned cell phones and chargers into a prison camp in the country's remote far north. The prison service in the Komi region said on its website that the cat was detained Friday evening as it climbed the fence of the region's Number One corrective labour camp with two cell phones, batteries and chargers strapped to its back using tape. It posted a photograph of the black-and-white cat held up by the scruff of its neck by a guard with the bulky package still stuck to its fur. "Prison guards have foiled various attempts to smuggle banned objects into Prison Colony Number One before, but in the case of the cat, the prison colony is at a loss: nothing like this has happened in the prison's history," the regional prison service said. Despite being caught in the act, the moggy will not face prosecution, but has been remanded to a

to the use of cruel and unusual punishment. Consequently, inmates had no idea what was happening to them," the complaint states. "Adding to the prisoners' distress, prison officials came into the Olympus wing wearing gas masks and at least one official laughed at the prisoners' inability to breathe." The inmates were kept in their cells for 20 minutes to 30 minutes before prisoners in two blocks were let out and taken to an outside courtyard; inmates in two other blocks were not released from their cells. Five inmates who were housed in the Olympus mental health unit are named as plaintiffs in lawsuit. One of the inmates is no longer incarcerated. The five plaintiffs are representing all current prisoners housed at Olympus and approximately 150 male prisoners who were housed there and exposed to the tear gas.

Mike Haddon, a deputy director for the Utah Department of Corrections, said he could not comment on the allegations because of the ongoing litigation. However, speaking generally, Haddon said that spray is used infrequently at Olympus and is typically deployed to avoid having to go "hands on" and to decrease injury to inmates and staff.

R v Hobson - Specimen Counts

Held: No doubt in most cases where a specimen count is relied on, it is enough for the judge to tell the jury, as the judge did in this case, that they may convict if they are sure that the offence has been committed at least once. Where the complainant cannot particularise any specific incident and merely alleges a pattern of similar conduct, the question for the jury will be whether they are sure that the account of the complainant is reliable. There will be no room for the jury to focus on one incident rather than another because no single occasion is sufficiently distinct, and it would be meaningless and unhelpful to tell the jury that they had to be sure in relation to the same incident.

However, where the complainant gives evidence identifying specific occasions alleged to be part of a pattern of conduct and there is evidence before the jury which could cause a reasonable jury to acquit on the specimen charge but convict on the particularised occasion or vice versa, then it is possible that the jury is not at one on any specific occasion. Where that is the case, an obvious solution is for the prosecution to apply to amend the indictment and add the particular incident or incidents as separate counts on the indictment. But if these specific occasions are not particularised in the indictment, it will be incumbent on the judge to tell the jury that they can only convict if they are sure that the offence has been committed on the same occasion, either on an occasion in the course of the unspecified pattern of offending, or on one of the particular occasions identified in the evidence.

Protest Treated as Anti-Social Behaviour

[by Netpol seeking to monitor public order, protest and street policing, and to challenge and resist policing which is excessive, discriminatory or threatens civil rights.]

Powers given to the police to deal with anti-social behaviour are increasingly being used to gather information on participants in political protest. Section 50 of the Police Reform Act gives police the power to demand personal details, if the officer reasonably believes that the individual has been involved in anti-social behaviour. Over the years the police have interpreted a wide variety of protest activity as 'anti-social behaviour' in order to obtain the names and addresses of those taking part. This has included sit-down protests, handing out leaflets and spontaneous demonstrations.

Failure to provide personal details when questioned under S50 is a criminal offence for which an individual may be arrested and prosecuted. It is hardly surprising that most peo-

telephones in their cells, which was a good initiative. Relationships between staff and the young people were good. We were impressed by the way in which staff put their own anxieties about the change aside and did not let this affect their dealings with the young people. Health care was good.

Young people had good access to education and training. However, with the rundown of the establishment it was increasingly difficult to motivate the young people and there was a concern that provision for those transferring elsewhere would not be effectively linked to the work they had done at Ashfield.

During the course of the inspection, we were particularly concerned about resettlement and transition planning. There was a lack of effective joint strategic planning between the Y JB and Ashfield. Poor communication between the interested parties was causing widespread confusion. Young people were becoming increasingly agitated because they did not understand what was happening. Some services would be discontinued before all young people had left Ashfield. Overall, we were not confident that the best interests of the young person were always considered.

We have reported our concern about high levels of violence at a number of recent inspections of YOIs holding children and young people. At Ashfield too, young people's safety was compromised because they were exposed to unacceptable levels of violence - and there is some evidence the situation has deteriorated since the closure decision was announced. Planning for the closure itself was not effectively coordinated between the Y JB and Ashfield, and the needs of individual young people were not carefully considered. The anxiety and uncertainty this created may well have contributed to the tension at the establishment. It certainly means that young people are not being adequately prepared for transfer or release. The establishment and the Y JB will need to work effectively together, not just to improve the situation but also to ensure it does not deteriorate further.

Ray Hill, Deputy Chief Executive, Secure Accommodation, said:

“We thank HMIP for their report. The Youth Justice Board has a clear transfer plan for the young people at Ashfield, which ensures that the needs of young people have been considered and safeguarded. However, we accept that at the time of this inspection there would have been a degree of uncertainty surrounding transfer given that the YJB was at the very early stages of implementing this plan. Over the past few months we have taken great care to ensure individual plans are in place with extensive consultations with the young people, their families and the Youth Offending Teams (YOTs). From the end of May, there are no longer any young people now left at Ashfield YOI."

ACLU Files Lawsuit Over Use Of Tear Gas In Prison’s Mental Health Unit

American Civil Liberties Union (ACLU) of Utah filed a federal lawsuit Monday 03/06/13, alleging constitutional rights of inmates housed in the mental-health unit at the Utah State Prison were violated when tear gas used to subdue one inmate spread into other enclosed cells. The complaint says that as tear gas infiltrated cells, inmates began "desperately trying to get the attention of prison officials by, among other things, kicking, screaming, and repeatedly pressing their emergency response buttons" but officers ignored the calls for assistance.

Correctional officers fired tear gas on Aug. 3, 2011, after one inmate refused to return to his cell from a courtyard, according to the complaint filed in U.S. District Court for Utah. The gas was pumped through air vents into the fully enclosed cells of other inmates, causing burning eyes, lungs and skin. Many inmates thought the wing was on fire.

"We commonly heard that people thought they were going to die," said John Mejia, legal director for the ACLU of Utah Foundation. "We think the circumstances of the case amount

local cats home, until they can find a new owner.

ECtHR Rejects Complaint by Twomey, Cameron and Guthrie

Court rejects complaints concerning unfairness of procedure leading to dismissal of jury and trial before judge sitting alone: - In its decision in the cases of Twomey and Cameron v. the United Kingdom (application no. 67318/09) and Guthrie v. the United Kingdom(application no. 22226/12), the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The Court emphasised that the system of trial by jury was just one example among others of the variety of legal systems existing in Europe, which it was not the Court's task to standardise. The right to a fair trial did not, therefore, require that the determination of guilt be made by a jury. In connection with the applicants' principal complaint, that the decision to dismiss the jury was taken on the basis of evidence of jury tampering which was not fully disclosed to the defence, the Court found that the procedure afforded the defence sufficient safeguards, taking into account, on one hand, the important public interest grounds against disclosing the evidence and, on the other hand, the fact that all that was to be determined was whether the trial should continue before a judge sitting alone or a judge sitting with a jury, two forms of trial which were in principle equally acceptable under the Convention.

Principal facts: The first and second applicants, John Anthony Twomey and Glenn MacDonald Cameron, are an Irish and a British national who were born in 1948 and 1959 and live in March and Cambridgeshire, respectively. The third applicant, Bianca Guthrie, is a British national who was born in 1975 and lives in London. Mr Twomey and Mr Cameron were both charged with an armed robbery committed at a warehouse near Heathrow Airport. At some point during the trial, the prosecution informed the judge that they were in possession of material showing that improper approaches were being made to some members of the jury in order to affect the deliberations. This material was not disclosed to the defence. Under the 2003 Criminal Justice Act (the 2003 Act), the judge subsequently discharged the jury as he considered that there had been a serious attempt to subvert the process of trial by jury. He also found that there was a real danger of the same thing happening again and submitted the question whether the next trial should proceed before a judge sitting alone.

Although the High Court Judge found that it would be possible to conduct the retrial with a jury, the Court of Appeal decided against it. The newly appointed judge subsequently sentenced Mr Twomey to 20 years and six months' imprisonment and Mr Cameron to 15 years' imprisonment. In November 2010, the Court of Appeal rejected the applicants' argument that they were entitled to disclosure of the evidence of jury tampering, which had formed the basis for the decision to proceed to retrial with a judge sitting alone. Finally, in October 2011, the Court of Appeal refused to certify a point of law, preventing the applicants from applying to the Supreme Court.

Bianca Guthrie, together with her sister CG and other defendants, stood trial between February and March 2011 on charges of fraudulent applications for housing and council tax benefits. In March 2011, one of the jurors complained that she had been approached and asked for her telephone number by CG while waiting outside the house court. Subsequently, Ms Guthrie's brother made an application for the jury to be discharged on the grounds that there were likely to perceive CG's approach as an attempt to improperly influence them. The judge rejected the application, relying on the jurors' firm assertions that they would be able to remain impartial.

However, further allegations were made that a former companion of CG had been in contact with a member of the jury. Therefore, under the 2003 Act, the judge discharged the jury

and made an order for the trial to continue before her sitting alone. Although she had examined undisclosed material relating to allegations of jury tampering, the judge did not consider that there was a risk of bias if she were to continue with the trial. In July 2011, the Court of Appeal upheld her ruling. The judge subsequently convicted the defendants of all charges against them. Two months later, the Supreme Court refused leave to appeal against the interlocutory judgment of the Court of Appeal.

Decision of the Court: Article 6§1: The Court reiterated that, although there was no right under Article 6 § 1 to be tried before a jury, the right to an adversarial trial meant that the defence must be given the opportunity to have knowledge of and comment on the evidence provided by the other party. However, it pointed out that entitlement to disclosure of relevant evidence was not an absolute right and must be weighed against other competing interests. Indeed, some cases required certain evidence to be withheld from the defence in order to safeguard an important public interest. In such cases, the Court had to assess the decision-making procedure to ensure that it complied with the Convention requirement of adversarial proceedings and incorporated adequate safeguards to protect the interests of the accused.

In both cases, the undisclosed material had not determined the applicants' guilt or innocence but had had a bearing on the separate issue of whether they had attempted to contact members of the jury in order to affect the deliberations. Therefore, the undisclosed material had been relied on by the prosecution only in relation to the procedural question of whether the jury should be discharged and the trial was to proceed before a judge sitting alone.

At the trial of Mr Twomey and Mr Cameron, the judge had informed the parties of his intention to discharge the jury and had decided on public interest grounds not to disclose the material showing evidence of jury tampering. Although the lack of disclosure and the absence of any statement indicating the nature of the allegations had prevented the applicants from challenging them, they had been given the opportunity to make representations as to whether it would cause unfairness if the jury were discharged and the trial continue, both before the High Court and the Court of Appeal .

At Ms Guthrie's trial, she and the other defendants had been provided with a gist of the evidence relating to jury tampering and given the opportunity to make submissions. Furthermore, that issue had been the subject of an interlocutory appeal, where the applicant had been able to make submissions.

In each case the procedure afforded the defence sufficient safeguards, taking into account, on one hand, the important public interest grounds against disclosing the relevant evidence to the defence and, on the other hand, the fact that all that was to be determined was whether the trial should continue before a judge sitting alone or a judge sitting with a jury, two forms of trial which were in principle equally acceptable under Article 6.

It followed that the applications had to be rejected as manifestly ill-founded under Article 35.

Unannounced Inspection of the Decommissioning of HMYOI Ashfield

Inspection, 11/14 Feb 2013 by HMCIP, report compiled March 2013, published 04/06/13

Privately managed by Serco Limited (Division Serco Civil Government)

“We have reported our concern about high levels of violence at a number of recent inspections of YOIs holding children and young people. At Ashfield too, young people's safety was compromised because they were exposed to unacceptable levels of violence - and there is some evidence the situation has deteriorated since the closure decision was announced. Nick Hardwick

The Justice Secretary announced plans to close HMYOI Ashfield and re-role it as an

adult prison. The inspectorate decided to proceed with their planned inspection in February 2013 to ensure that the young people who continued to be held there were held safely and decently during the transition and that plans to ensure their move to another establishment or release were well managed. At the time of inspection, Ashfield was just one-third full and held 123 young people, most aged 16 or 17. Detailed feedback was given to the establishment immediately after the inspection.

Inspectors were concerned to find that: - despite the reduction in numbers held, there had been a sharp increase in self-harm incidents since the closure announcement; - the number of formal disciplinary proceedings was high, and fights and assaults accounted for two-thirds of the charges laid; - levels of violence were high and staff said there had been an increase in the overall number of violent incidents since the closure announcement; - use of force by staff was also high in 2012 and two young people had suffered broken bones following staff use of force; - young people were routinely strip-searched when they entered or left reception; - there was a lack of effective joint strategic planning between the Youth Justice Board (YJB) and Ashfield; and - poor communication between the interested parties was causing confusion and agitation.

Introduction from the report: In January 2013, the Justice Secretary announced plans to close HMYOI Ashfield and re-role it as an adult prison. The inspectorate had plans to conduct an unannounced inspection of the establishment in February 2013. We decided to proceed with the inspection to ensure that the young people who continued to be held there were held safely and decently during the transition, and that plans in place to ensure their move to another establishment or release were well managed.

We focused the inspection on areas of greatest concern and produced this truncated report more quickly than usual so it could be of use before the establishment closed. Because we did not look at every area of the establishment, we have not graded it against each healthy prison test, as is our normal practice. As usual, we gave immediate, detailed feedback to the establishment and Youth Justice Board (Y JB) at the end of the inspection. At the time of the inspection, the establishment was just one-third full and held 123 young people, most of whom were aged 16 or 17. This compared with a population of 332 at the time of our last inspection, and an average of 237 in 2012. Ashfield had an operational capacity of 360.

Our concerns about safety appeared to have been justified. Despite the reduction in numbers held, there had been a sharp increase in self-harm incidents since the closure announcement. The number of formal disciplinary proceedings or adjudications was high, and fights and assaults accounted for two-thirds of the charges laid. The highest number of adjudications per 100 of the population was in January 2013. Levels of violence were high. There were 351 fights and 377 assaults in 2012 and staff told us there had been an increase in the overall number of violent incidents since the closure announcement. In the 12 months to January 2013, there had been 43 serious fights, of which 37 had resulted in serious injury and six in minor injury. Five staff had been assaulted in the same period. Use of force by staff was also high in 2012 and two boys had suffered broken bones following staff use of force.

As at other young offender institutions (YOIs), young people were routinely strip-searched when they entered or left reception. Of 3,773 such searches over the last 12 months, just one had resulted in a find. Despite the levels of violence, young people did not tell us they did not feel safe. We were also pleased that the segregation unit had been closed since our last inspection, and there were some good systems to address the particularly poor behaviour of some young people.

The environment was reasonable, although needing some attention. Young people could have