times confusing and lacked context; - staff said there were delays in receiving placement orders from the Youth Justice Board, without which young people cannot be moved to custodial facilities; - opportunities to discuss and resolve such issues were ad hoc, with only a court user group in existence; - there was no formal risk assessment process and the use of handcuffs was excessive and sometimes inappropriate; - staff received no safeguarding or child protection training and had little knowledge or awareness about mental health or substance misuse issues; - in all but one of the suites, all detainees had to sit on hard benches, possibly for several hours; - the cells varied in cleanliness.

US: Prisoner Abandoned in Cell Gets Four Million Dollars Compensation

A 25-year-old college student has reached a US$4.1m settlement with the US government after he was abandoned in a windowless cell for more than four days without food or water. Daniel Chong told how he drank his own urine to stay alive, hallucinated that agents were trying to poison him with gases through the vents and tried to carve a farewell message to his mother in his arm. It remained unclear how the situation occurred and no one had been disciplined, said Eugene Iredale, an attorney for Chong. The justice department's inspector general is investigating. "It sounded like it was an accident – a really, really bad, horrible accident," Chong said. Chong had been taken into custody during a drug raid and placed in the cell in April 2012 by a police officer authorised to perform Drug Enforcement Administration work. According to Iredale the officer told Chong he would not be charged and said: "'Hang tight, we'll come get you in a minute." Chong ended up being abandoned there.

Unaceptable Punishment of Police Guilty of Abusing Prenant Woman

An inspector and sergeant have been issued with final written warnings after a pregnant woman was handcuffed for 11 hours and briefly left semi-naked while in custody. Nottinghamshire Police confirmed that cases of gross misconduct had been found proven against the officers after the 43-year-old woman complained of her treatment following her arrest on suspicion of arson with intent to endanger life and witness intimidation. She was charged with the offences but these were later discontinued. The force said the detainee, who was seven-and-a-half-months pregnant at the time, had been assessed as being at risk of self-harming, had her upper clothing removed and was left naked from the waist up for 13 minutes. She was also handcuffed for 11 hours. It said a third officer - a sergeant - received a written warning after a case for misconduct was proven. It was expected that all the officers at the very least should have been sacked if not prosecuted.

Hostages: Jamie Green, Dan Payne, Zoran Dresic ,Scott Birtwistle, Jon Beere, 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)
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MOJUK: Newsletter 'Inside Out' No 436 (01/08/2013)

Justice for Tony Marshall - Complaint to IPCC Against Police, Upheld

'The British Justice System works, very slow to rectify damage caused by those who create it'

'A couple of meanings from the definition of the word fair is; reasonable, fair-minded, open-minded, impartial, even-handed and non-discriminatory. The question here is, can our very own British Justice System really live up to these expectations? Is it really a fair deal, to have offences committed by those who are supposed to be doing the complete opposite? '

Tony Marshall's Trial & Conviction was covered in MOJUK bulletin 12/02/2012

A complaint was made in 2011 to the Independent Police Complaints Commission (IPCC) regarding the breaches of professional behaviour and misconduct carried out by the investigating officers/forces, the offences that Mr Marshall was convicted of had covered the areas of six police force's, three of whom had taken the leading roles, that being the Metropolitan Police, Thames Valley Police and Hampshire Constabulary.

The basis of Mr Marshall's complaint was that; officers 'built' a conspiracy charge around him, officers paid cash to an individual for information to whom himself was named as being one of the offenders within the case, officers had perjured themselves in Court by lying under oath stating that; a named suspect within this case (the informant) was never a suspect within this case when he was clearly named within the case papers as being 50, CCTV from the Police Station Custody area of one of the named forces being deliberately destroyed not disclosed as it would have confirmed that this individual was a suspect and had in fact been arrested on the same day as Mr Marshall by the investigating officers and that deals had been done between the named forces to cover up offences that would have undermined their case against Mr Marshall.

Mr Marshall's original complaint was made to the IPCC in 2011, as part of the IPCC's protocol this was sent to each of those named forces (Professional Standards Department's) as individual complaints, Mr Marshall was given three different reference numbers for this complaint by the IPCC, one for each force. Mr Marshall has never been content with the fact that the named police forces had been allowed to investigate their own fellow colleagues; this in itself would be a recipe for bias, cover up's and the protection of those officers/forces involved. All forces named acknowledged the complaint and promised to look into the raised issues. The first police force to get back to Mr Marshall was the (Metropolitan Police), they state that they take any complaint against the police very seriously and are rigorous in their investigation, on the 02/02/1012 Ms Lucy James, Police Sergeant at the Professional Standards Department of the Metropolitan Police states;

. . . . I have to tell you that while we take a serious view of what you tell us" this is not a complaint that we intend to take any further. The Police Reform Act 2002 sets out the kind of complaints we must always follow up. Yours does not fall into this category because I do not consider that you are a complainant under that act, after a further short description of the complaint she states; this means I do not plan to take any further official action in connection with your complaint.

This being the exact type of response that Mr Marshall had expected in connection with his complaint, Mr Marshall being determined to get to the bottom of the officers conduct, he appealed this decision, taking it direct to the IPCC.

Metropolitan Police: On the 28/02/2012 the IPCC replied to Mr Marshall's complaint stating;

. . . . The Metropolitan Police have not recorded this complaint on the grounds that Mr Marshall is not a complainant, for the purposes of these issues, as defined by the Police Reform Act 2002. In particular they state Mr Marshall is not a member of the public in relation to whom the conduct took place nor was he adversely affected by the conduct.

. . . . Section 29(5) of the Police Reform Act 2002 states a person is adversely affected if he suffers from loss or damage, distress or inconvenience, if he is affected; this is a broad definition. In this case Mr Marshall alleges inadequate investigations were conducted by police or the police decided not to pursue investigations which in turn detrimentally affected his criminal trial. Such conduct, if true, has caused Mr Marshall considerable distress and, at the least, inconvenience. He is therefore adversely affected and is entitled to lodge a complaint regarding this alleged conduct.

. . . . On the basis of this assessment I have decided to Uphold the appeal against The Met.

Hampshire Constabulary: On the 28/09/2012 after ten months of investigating completed their investigation, just as Mr Marshall had previously predicted, this complaint was Not Upheld by the 'Professional Standards Department' of Hampshire Constabulary, amongst the cover ups of the misconduct carried out by the officers involved, they stated;

. . . . It is legitimate practice for the Police to provide financial rewards to persons who provide information of criminal activities however the identities of these persons are quite correctly kept strictly confidential.

Mr Marshall at no point was asking as part of his complaint for them to reveal the identity of any individual as he already knew who the informant was, what the informant had told the Police and how much the informant was paid in return, this was all noted on the Police National Computer (PNC) between 2009 - 2010. The issues that Mr Marshall takes is that these individuals were named as suspects during trial, they were identified within the case papers as offenders, they were identified by police officers as being involved in a robbery/burglary offences, but yet off the record deals were being made to cover up their criminal activities, these individuals are career criminals with extensive criminal records and quite simply their information could not be trusted, if this is legitimate practice as was stated by the Professional Standards Department of Hampshire Constabulary, is it any wonder as to why today there are so many innocent people within prison for offences that they truly were not involved in. Mr Marshall being dissatisfied with the outcome of this report and determined to have his complaint robustly and correctly dealt with, he again, appealed this complaint direct to the IPCC.

On the 23rd May 2013, IPCC replied to Mr Marshall's appeal, stating;

. . . . I consider that Hampshire Constabulary has not adequately addressed the complaint. The only officer identified is DC Hooper but it is evident the complaint concerns the conduct of other officers/members of staff from three different police forces and with the exception of complaint '1' (as listed in the Investigating Officer's report), I am unable to decipher which allegation relate to Hampshire Constabulary and which officers/members of staff. As such the investigation is not adequate.

. . . . The Investigating Officer is required to state his own opinion about whether the people complained about have a case to answer. The Investigating Officer has reached a conclusion in respect of DC Hooper (no case to answer) but has not reached a conclusion for any other officer/member of staff.

. . . . The Investigating Officer has not followed all relevant lines of enquiry. Firstly the officers subject of the alleged conduct need to be clearly identified by the appropriate authority. Once identified, due to the severity of the allegations made, consideration should be given to

victed of the murders of three other Catholic men - Patrick Brady, Kevin McPolin and Dermot Hackett - between 1984 and 1987.

Monday's court decision means the 58-year-old may not even be considered for release until March 2018. Speaking in the court, Lord Chief Justice Sir Declan Morgan said of the murders: "There are serious aggravating factors. The effects on victims will live with them forever. "The learned trial judge recommended a minimum term of 30 years before he should be considered for release and I agree. The appropriate minimum term in this case should be 30 years."

Police Officer Guilty of Assault - Gets Slap on the Finger *IPCC 26 July 2013*

[Why were the four officers, one who caused the actual bodily harm and the other three who stood and watched, not charged with 'Joint Enterprise?]

A Greater Manchester Police officer has been found guilty of common assault following an investigation by the Independent Police Complaints Commission. Sergeant Richard Miller, 46, was found guilty following a trial at Manchester Magistrates' Court. He has been fined £500 and ordered to pay costs and compensation. The conviction relates to an incident in Chadderton Custody Suite on 15 July 2012 in which the officer used excessive force on a 33-year-old man. The IPCC investigation found that Sgt Miller used excessive and inappropriate force when he dragged the handcuffed man along the floor of the custody suite. The man had been arrested earlier on suspicion of assaulting a police officer during an incident at the Star Kebab and Pizza takeaway in Yorkshire Street, Oldham at 4.30am that day. It transpired he had sustained a broken arm during the arrest.

The IPCC investigation built a picture of events outside the takeaway and in the custody suite from CCTV footage and witness accounts. While it is believed the man sustained the injury to his arm during his arrest there is no evidence that this was as a result of deliberate, excessive force. Instead the investigation found it occurred due to the application of a recognised arm hold by an officer and then the ensuing struggle resulting in the man and the officer falling to the ground.

However, the actions of Sgt Miller in the custody suite were found to be wholly inappropriate. CCTV footage showed the officer entering the van dock area before approaching the police van in which the man was sitting. Within seconds Sgt Miller forcibly removed the man before using the handcuffs to drag him more than 30 metres into the custody suite. The audio recording from the suite picked up the man's screams of pain. Once it was identified that the man had an arm injury he was taken to hospital for treatment. The IPCC investigation identified that a police constable and two custody detention officers witnessed Sgt Miller's actions but failed to challenge him. As a result the IPCC found the three had a case to answer for misconduct.

IPCC Commissioner James Dipple-Johnstone said: "The CCTV footage which captures the actions of Sgt Miller is truly shocking. Using handcuffs to drag a detainee through a custody suite is wholly inappropriate. To do it to someone who is injured and screaming out in pain is inhumane. Sgt Miller tried to defend his actions by saying he was dealing with an 'unwilling and non-compliant' detainee. That is no defence. Police officers are trained to deal professionally in such a situation. Sgt Miller acted unprofessionally and abused his position of authority."

Court Custody Facilities in Lancashireand Cumbria

Greater Oversight Needed to Improve Standards/Inspectors were concerned to find that:

- important policy changes were communicated by emails, which staff said were some-

at the briefing on this, an awful lot of hard work and deep study is going on, with the realisation of exactly the problem that the noble Lord highlights: these are vulnerable young people, who are difficult to manage and need a great deal of care and attention.

Lord Bishop of Guildford: Would the Minister care to comment, in the light of the reports of HM Inspectorate of Prisons of May this year on the increased violence at Ashfield and Feltham—it is 10 years to this month since the Commission for Racial Equality produced its report on Feltham—on the desirability of the elimination of the use of batons and routine strip searches in juvenile prisons?

Lord McNally: Every inclination I have is in that direction. Carrying on the policy of the previous Administration, we have tried to make sure that order and discipline in young people's institutions of various kinds are maintained with the minimum of physical intervention and with the maximum attention on trying to manage difficult situations. A lot of the training addresses how the staff themselves are able to manage down situations before they become violent. However, we also have a duty of care to our staff and a duty of care to other inmates in these institutions, who may become victims of uncontrolled violence.

Lord Patel of Bradford: My Lords, what mental health and therapeutic services are available not only to assess but to support young children and others at risk of suicide and self-harm?

Lord McNally: My Lords, the Department of Health has made a commitment to provide access to liaison and diversion services for offenders of all ages who come into contact with the youth justice and criminal justice systems by 2014. A national liaison and diversion development network has been created, bringing together 101 sites for adults and young people with the aim of aligning service provisions where appropriate, while recognising the different pathways required for different ages. There are 37 youth pathfinder sites in this operation. The sites screen young people under suspicion of committing an offence, whether in police custody suites or in custody, and this will be followed by a full health assessment capable of identifying a range of vulnerabilities. One of the good things that has been done in recent years is the introduction of real health and mental health testing in this area. Again, I freely acknowledge that it carries on work from the previous Administration.

Milltown Killer Michael Stone to Serve Rest of Term *BBC News, 30/07/13*

A court has ruled that Stone serve the rest of his sentence for the 1988 Milltown Cemetery attack. Stone had served 12 years of a 30-year term for the three murders at Milltown and three other sectarian killings. He had been released on licence as part of the Good Friday Agreement but was jailed again for trying to kill Sinn Fein leaders at Stormont in 2006. Stone was jailed for 16 years for the attempted murders of Gerry Adams and Martin McGuinness and other offences including possessing explosives.

The convicted killer had claimed to have been engaged in an act of performance art when he went to Stormont on the day Ian Paisley and Mr McGuinness were due to be nominated as Northern Ireland's first and deputy first ministers. He was armed with knives, an axe, garrotte and a flight bag containing explosive fireworks, flammable liquids, a butane gas canister and fuses. Stone, who suffers from hereditary motor neuropathy, was overpowered after trying to ignite the bag and throw it into the main foyer.

In 1988, Stone launched a gun and grenade attack on the Belfast funeral of three IRA members shot dead by British special forces in Gibraltar. Three mourners - Thomas McErlean, John Murray and Kevin Brady - were killed and more than 50 injured. Stone was also con-

serving regulation notices and seeking formal accounts. It should be ensured there is an auditable trail of all enquiries made. Where it is decided a notice will not be served and/or an account will not be sought, the rationale should be clearly documented. Although I note the report refers to a review of the Record Management System and 'all' the documents used in the court file, within the papers provided to the IPCC I have not seen reference to contemporaneous notes of decision making being reviewed, such as relevant policy decisions or officers' notes. I would recommend policy books are checked and other contemporaneous evidence is reviewed for example, in respect of complaint J, the relevant custody records. Once these enquiries are complete, the Investigating Officer should review the investigation and establish if this evidence has generated any new lines of enquiry. If it is decided it is not proportionate to pursue a line of enquiry, the reason for this should be documented.

. . . . The investigation is therefore not proportionate and the above enquiries need to be undertaken before the investigation is considered to be complete.

. . . . Until the outstanding enquiries have been completed I am unable to assess the appropriateness of the specific findings reached or the other conclusions of the investigation.

. . . . For the reasons given above, I consider that the findings of the police complaint investigation are not appropriate. This aspect of the appeal (against the Hampshire Constabulary) is therefore Upheld.

The IPCC then go on to make directions and recommendations for the Investigating force;

• To re-investigate the complaint, clearly identifying the allegations which Hampshire Constabulary is the appropriate authority for.

• The Investigating Officer is required to complete the investigation report by stating their opinion about whether there is a case to answer for misconduct or gross misconduct for each of the officers/members of staff identified and also whether the complaint investigation will be referred to the CPS.

• The complainant should be given a new appeal right at the end of this process.

Recommendations: The following enquiries should be considered as part of the investigative process:

• To identify the Hampshire officers/members of staff subject of the alleged conduct.

• It should be ensured Mr Marshall's submissions have been considered and if an allegation is deemed too vague to progress, reasonable attempts should be made to obtain clarification from him.

• Once identified, due to the severity of the allegations made, consideration should be given to serving regulation notices and seeking formal accounts [It should be ensured there is an auditable trail of all enquiries made. Where it is decided a notice will not be served and/or an account will not be sought the rationale should be clearly documented].

• It should be ensured contemporaneous notes/documents of the police decision making are reviewed, such as relevant policy decisions or officers' notes and relevant custody records (for example, in respect of complaint J).

Once these enquiries are complete, the Investigating Officer should review the investigation and establish if this evidence has generated any new lines of enquiry. If it is decided it is not proportionate to pursue a line of enquiry, the reason for this should be documented.

Mr Marshall remains dissatisfied with the fact that the same force is given the opportunity to reinvestigate their own officers' again, this force was previously been given the opportunity to address Mr Marshall's complaint but had clearly failed to follow all relevant lines of enquiry, as stated by the IPCC; Hampshire Constabulary has not adequately addressed the complaint, the investigation is therefore not Proportionate, the above enquiries need to be undertaken

before the investigation is considered to be complete.

This complaint has now been ongoing since 2011, the relevant forces have been given ample opportunity to appropriately address Mr Marshalls complaint but have failed to do so, we now again await the outcome of this further investigation into Mr Marshalls complaint, will keep you updated!

Similar Police case management was exposed within the Panorama programme that was aired on the 8th October 2012, ("Return of the Supergrass") this programme highlighted specific cases and the handling of police informants by police forces within that case, one of which is currently being reviewed by the Criminal Cases Review Commission (CCRC).

Tony Marshall: A9333AC, HMP Frankland, Brasside, Durham, DH1 5YD

Justice Matters - A Three Year Strategic Initiative

A new initiative 'Justice Matters'was launched this month by the Centre for Crime and Justice Studies that will run over the next three years.

The core proposition of the Justice Matters initiative is a simple one: the criminal justice system in the United Kingdom is far too big, far too costly, and far too intrusive and needs to be smaller in every way. This means fewer arrests; fewer prosecutions; fewer prisoners; fewer probationers. In its place we need to develop an alternative set of policies and practices that, collectively, are a proportionate response to the harms that people experience.

Policing, Prosecution And Punishment

We launched Justice Matters because our work over recent years has led us to the conclusion that, over the course of the last generation, the United Kingdom has become over reliant on policing, prosecution and punishment. This over reliance is socially harmful, economically wasteful and prevents us from tackling the complex problems our society faces in a sustainable and socially just manner.

• It is socially harmful because the criminal justice system is good at punishing certain individuals and groups, while failing to prevent social problems from arising, or to resolve those that occur.

• It is economically wasteful because billions of pounds are devoted each year to a system that, fundamentally, does not work.

• It prevents us from tackling complex problems because the large social footprint occupied by criminal justice crowds out other, more innovative, just and effective policy and practice solutions.

There are many excellent and inspirational individuals and organisations working to address specific criminal justice harms: challenging miscarriages of justice, discriminatory stop and search practices or harmful prison conditions for instance. Others are actively engaged in supporting those subject to criminal justice capture, or in promoting system reform.

We admire and respect those organisations and individuals and the work that they do. The Justice Matters initiative will not seek to duplicate nor compete with this work. It has a different purpose:

1. To develop ideas to downsize fundamentally the criminal justice system in the United Kingdom. We are interested in exploring an across the board reduction in the social footprint occupied by the criminal justice system.

This means fewer arrests; fewer prosecutions; fewer prisoners; fewer probationers. It also means fewer criminal justice workers, whether police officers, judges and magistrates, prison and probation officers or others.

2. To explore options to rebuild policy and practice alternatives to criminal justice. This is not about enhancing the capacity of criminal justice agencies to address the needs of those convicted of offences.

It is about rethinking the configuration of policy and practice – for instance in housing,

nurse working for an outside contractor.

The police watchdog investigated Mr Orchard's death after he was arrested at about 11am on 3 October last year and taken to a police station by van. He was taken to hospital at 12.15pm after he was found to be unconscious in his cell and died a week later. His family said that he had suffered from mental health problems but was a "gentle and loving" man. A file about the arresting officer was sent to prosecutors in March but they ruled there was insufficient evidence for him to be charged with unlawful arrest or that the use of force was unnecessary.

The latest file passed to the CPS this month relates to what happened after Mr Orchard was put in the back of a police van. The package of evidence sent to prosecutors includes CCTV footage taken from inside the cell where he was found unresponsive. The six members of the police staff have been put on restricted duties, despite calls by the watchdog, the Independent Police Complaints Commission (IPCC), that they should be suspended from duty. The IPCC commissioner Rachel Cerfontyne said: "This file of evidence concerns Mr Orchard's time in custody. It will be a matter for the Crown Prosecution Service to determine whether criminal charges will be brought against any of those police staff involved in Mr Orchard's detention on that day."

The case is the latest in a series of death-in-custody cases involving the mentally ill, including that of the musician Sean Rigg who died at a Brixton police station in 2008 after being restrained and handcuffed. *Paul Peachey, Indpendent, Monday 29 July 2013*

Prisons: Child Suicides *House of Lords / 29 July 2013 : Column 1537*

Lord Sheldon to ask Her Majesty's Government what steps they are taking to reduce the number of suicides of children in prisons.

Minister of State, Lord McNally: My Lords, the Government are committed to reducing self-inflicted deaths of children in prison. Since the tragic deaths of three children in 2011-12, the National Offender Management Service has established a working group to extract and disseminate the learning to prevent further deaths. Additionally, a review of the assessment, care in custody and teamwork procedures for young people is being undertaken.

Lord Sheldon: The actual task is down to the mothers. The mothers should really not take the children to prisons; that is the task.

Lord McNally: I am not sure how that links to the Question on the Order Paper. If the noble Lord is asking about mother and baby units, I can try to give an answer on that. However, the Question was about the number of suicides of children in prison. That is what I was responding to.

Lord Laming: Would the Minister agree that, no matter how serious the offences committed, or alleged to have been committed, by these young people, they are also often vulnerable young people who are confused and capable of serious self-destruction? Can the Minister expand on his earlier Answer to say what steps are taken to ensure that the assessment of risk is as strong as possible? Is he satisfied that prevention plays a key part in dealing with these young people?

Lord McNally: My Lords, first, we are talking about six deaths over 10 years; that is six too many, I readily acknowledge. We also now have an all-time low of young people in custody, for which both Administrations and those working in the youth justice system should take credit; there are fewer than 1,400 in custody, including only a handful of girls. However, the noble Lord is absolutely right that we are dealing with young people who, as well as often having a great capacity for violence against other people and self-harm, are extremely vulnerable and quite often exhibit mentally unstable behaviour. We are bringing in both initial and ongoing assessments to try to make sure that we can identify those who are at risk of either self-harm or, ultimately, of killing themselves. Looking

main cities. Gunmen outside of the prison fired into the air as inmates inside began setting fires, suggesting the jailbreak was preplanned, a Benghazi-based security official said.

Croydon Youth Offending Service - Needs To Improve Its Performance

Croydon needed to improve how it assessed and managed the risk of harm posed by children and young people who had offended, said Liz Calderbank, Chief Inspector of Probation, publishing the report of a recent joint inspection of the work of Croydon Youth Offending Service (YOS). This joint inspection of youth offending work in Croydon is one of a small number of full joint inspections undertaken by HM Inspectorate of Probation with colleagues from the criminal justice, social care, education and health inspectorates. Inspectors focus on five 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 YOS, undertaken by HMI Probation in December 2011. More recently, inspectors were concerned to find that overall:

- work to protect the public and actual or potential victims was poor. In too many cases there were deficiencies in assessment and planning that carried through to the work undertaken. In these cases there was a concentration on process, ie, getting the forms completed, but an apparent lack of understanding of the purpose of the work. Previous convictions and behaviour were often either ignored or not seen as relevant. Little attention was given to the victim or sometimes they were not even identified;
- work to protect children and young people and make them safer was unsatisfactory. In too many cases, there was often a failure to recognise factors that might make a child or young person vulnerable and again, a concentration on process and an apparent lack of understanding of the point of the work;
- work to reduce reoffending was unsatisfactory. Case managers were carrying high caseloads often exhibiting complex needs and involving both vulnerability and a risk of harm to others. The range of support provided, together with the quality of work carried out with most children and young people and their parents/carers was good, but deficiencies in some assessments and planning meant the work was not always focused on the areas of most need; and
- governance was not effective. The Board was focused on problem solving and there were many examples of successful partnership work promoted through the Board. However, the challenge and support to the YOS had not been as effective as it needed to be.

Inspectors made recommendations to assist Croydon Youth Offending Service in its continuing improvement and strongly advised both the Youth Offending Service and the Youth Crime Prevention and Youth Offending Service Management Board that they take full note of their intent and work together to take these recommendations forward. The new inspection programme of youth offending work, based on a risk-proportionate approach, was agreed by Ministers in December 2011.

4 Police Officers Face Charges Over Thomas Orchard's Death In Custody

Four police officers could face criminal charges over the death of a mentally ill church caretaker who was restrained when he was arrested following a disturbance in the street, The Independent has learned. Thomas Orchard, 32, died in hospital seven days after being found unresponsive in his cell – just an hour after his arrest by police in Exeter. A file has now been passed to the Crown Prosecution Service (CPS) for charges to be considered against four officers from Devon and Cornwall Police, two civilian members of the custody staff and a

education, health, social security and employment – so that many current criminal justice responses are not required at all.

3. To develop an evidenced agenda to transform policy and practice and reduce reliance on criminal justice. This means a sustained change in the way that problems currently managed by criminal justice are dealt with.

The long-term goal is a much smaller criminal justice system that treats all subject to it with dignity and respect and a comprehensive set of services and interventions that respond to human need and promote well-being.

We will be producing a number of conventional reports and briefings, as well as developing innovative communications outputs, to equip a range of audiences with knowledge about criminal justice harms and alternative policy solutions.

Over the coming three years we also want to build strong, sustained and significant partnerships with a range of like-minded individuals and organisations committed to fostering lasting and long-term change. We want to be the place where the facts about the harms caused by the criminal justice process are discussed and alternatives developed.

We are making a long-term commitment as an organisation to sustaining and delivering on this ambitious agenda. We know that we do not have the monopoly of wisdom.

Over the coming months, and as our ideas develop, we will continue to add new content to our website. We will also be contacting a range of individuals and organisations to discuss our plans and explore possible partnerships.

Find out more about Justice Matters on: http://www.crimeandjustice.org.uk/project/justice-matters

Are 'Serious Organised Crime Agency' - Supplying Names for Afghan 'Kill List'

Lawyers acting on behalf of an Afghan citizen, who lost five of his relatives in a missile attack by international military forces, have this week issued legal proceedings in the High Court against the UK's Serious Organised Crime Agency (SOCA) claiming that the agency's alleged involvement in a 'kill list' of Afghan targets is unlawful.

Habib Rahman from Kabul, Afghanistan, lost two of his brothers, two of his uncles and his father-in-law in a missile attack on 2 September 2010. Mr Rahman's cousin, Abdul Wahab Khorasani, is a former Parliamentary candidate for Takhar province in Afghanistan. In the run-up to the Afghan Parliamentary elections in 2010, several of our Mr Rahman's relatives assisted Mr Khorasani with his campaign.

The attack occurred while they were campaigning with Mr Khorasani in Rustaq district of Takhar province. In total, the attack killed 10 civilians and injured several more, most of whom were election campaign workers and relatives of Mr Rahman. At the time the Afghan President Hamid Karzai condemned the strike.

According to a press release issued by the International Security Assistance Force on 2 September 2010, the attack was 'a precision air strike'. The statement claimed "initial reflections indicate 8 to 12 insurgents were killed or injured in the strike, including a Taleban commander." However, evidence suggests that this was an instance of mistaken targeting. The strike was apparently aimed at a person whose name had been added to a list of individuals known variously as the Joint Prioritised Effects List or Joint Integrated Prioritized Target List.

The effect of adding a person's name to the list is to designate that person as an enemy combatant, who as such may be targeted and potentially killed. An official public report to the Committee on Foreign Relations of the United States Senate (the US Senate Report) described the list as a 'kill

list,' stating that, 'The military places no restrictions on the use of force with these selected targets, which means they can be killed or captured on the battlefield".

Law firm Leigh Day claim that UK civilians working for the Serious Organised Crime Agency (SOCA) are involved in or contribute to the compilation, review, administration and/ or execution of the List. The firm argues that SOCA's involvement in the List is unlawful in that it exceeds the agency's statutory mandate and powers.

Rosa Curling from Leigh Day, who is representing Mr Rahman, said: "Our government argues that the UK's presence in Afghanistan is needed in order to help establish and maintain democracy and the rule of law. The UK government has no hope of doing this, if at the same time it is itself involved in the unlawful killing of civilians in Afghanistan. We cannot have civilian law enforcement official involved in military operations.

"The 'Kill List', in which the UK is involved, operates as a target list for individuals located in Afghanistan. One of the options for dealing with those on it is to kill them. Our client lost five of his relatives as a result of a "precision air strike" related to the 'Kill List' An independent investigation however, has shown that this was a case of mistaken targeting.

At the time of their death the victims were all campaigning for the election of a local Parliamentary candidate. As a civilian policing organisation SOCA has no legitimate or lawful role to play in the compilation or administration of this Kill List – it has no authority to be involved in military operations and the killing of individuals.

The courts must urgently review whether the SOCA's and indeed the UK's role in the compilation, review and execution of this List if unlawful. Incidents like that affecting our client must be properly investigated." *Leigh Day Soicitors, 17 July 2013*

Prisoner Suffrage - Draft Voting Eligibility (Prisoners) Bill

Mark Alexander, Gartree Prison Wednesday 24th July 2013

The Joint Committee on the draft Voting Eligibility (Prisoners) Bill- comprised of six MP's and six Peers recently invited interested organisations and individuals to tender written evidence as part of their inquiry into Prisoner Voting. This follows pressure on parliament from the Council of Europe to comply with the ECHR decision in Hirst v UK. The draft Bill sets out three options: 1) Disqualifying prisoners sentenced to 4 years or more from voting 2) Disqualifying those sentenced to more than 6 months 3) Keeping the existing ban disqualifying all prisoners. In making the following submissions, I have drawn upon my own experience of prisons as well as the work of eminent scholars in sociology and politics. I call on the Joint Committee - which is willing to consider approaches beyond the three existing options - to extend the Bill and support the enfranchisement of all prisoners, not just those with short sentences.

Re-offending rates in the UK remain incredibly high. 70% of prisoners re-offend within two years of their release. The average offender comes to prison with ten convictions behind them. This is in marked contrast to many of our European counterparts and I believe this is in part to do with a lack of emphasis upon civic responsibility in UK prisons. We now have the 4th highest population of prisoners in Europe (as of June 2010). There are 18 EU member states with no restrictions upon prisoner voting.

There is a clear difference between the needs of punitive justice and those of rehabilitative and restorative justice. This can be a hard balance to strike, but if we are to expect prisoners to wilfully reintegrate with society upon their release then it is imperative that they are not ostracised and alienated by it during their custody.

Journalists"

Court of Appeal Rejects Drug Smuggler's BatteredWoman Defence

Duncan Campbell, guardian.co.uk, 25/07/13

Goldie Coats's appeal against 10-year sentence after being caught with £64,000 worth of cocaine was a test case: Ms. Coats claimed she only agreed to smuggle cocaine into Britain because she suffered from battered woman syndrome has failed in her appeal against her conviction. The case had been referred to the court of appeal by the Criminal Cases Review Commission (CCRC). It was seen as a test case for such a defence. In 2007, Goldie Coats, 28, from south London, was stopped at Heathrow by customs officers on a flight back from Jamaica with 1.26kg (2.7lb) of cocaine, worth £64,000, hidden in the handles of her suitcases. She pleaded not guilty and claimed at her trial in 2008 that she had no idea the suitcases contained drugs, but was convicted and jailed for 10 years. After being contacted by a third party, the CCRC concluded that new medical evidence suggested that Coats had been suffering from battered woman syndrome at the time of the offence. Such a defence has been used in murder cases in relation to women who have been abused.

Lady Justice Hallett, Mr Justice Openshaw and Mr Justice Leggatt heard Coats give evidence to her counsel, Sarah Forshaw QC, that she had suffered a traumatic childhood in which her father had been violent towards her mother. He sexually assaulted Coats and killed himself two weeks later. "I think he killed himself because of the sex assault on me," she said. Her new stepfather had also sexually assaulted her, the court heard, and she left home at 15.

Coats said she had her first child at 16. At 21, she began a relationship with Chesham Walters, who had a lengthy criminal record. When she was pregnant by him, he punched her in the stomach, prompting a miscarriage, she said. During their relationship, the court heard, he had held a carpet-cutter to her throat, set a dog on her that bit her lip and stomach and frequently subjected her to violence and threats. When she was pregnant again, the court heard, Walters told her to go to Jamaica to bring back cocaine. Explaining why she did not go to the police, she said: "I'm more scared of him than I'm scared of the law. He petrified me. "Everyone says: 'Why did you stay with him?' and I can't explain why." Walters, who regularly wore a bulletproof vest, was jailed for life in 2008 for the murder of another drug dealer in Brixton, south London. He is serving a minimum of 27 years. Coats said that even when he was in prison he threatened her in letters, saying: "I can still get to you and your people." She had lied in her original trial because she was frightened of him and had seen his sister in court, she said. Under cross-examination from Mark Mullins, for the crown, she said: "I don't care about overturning the conviction. It doesn't matter because it doesn't change anything. I'm done." She had already spent five years away from her two children in prison, she said, and was due for release in 10 weeks.

Dr Gillian Mezey, an expert in psychological trauma, said Coats showed all the signs of "learned helplessness" and "traumatic attachment" common in such cases of battered women. However, a consultant psychiatrist, Dr Philip Joseph, disagreed with her assessment and said Coats had lied and he could find no evidence of helplessness. Turning down the appeal, Hallett said that, while Coats may well have had a "difficult and abusive" childhood and been subjected to violence and threats by Walters, she was not a credible witness. Her appeal was denied and there was no reduction in her sentence.

Inmates Escape From Libya's Al-Kweifiya Prison

A 1,000 detainees escaped from a prison near the eastern Libyan city of Benghazi in a massive jailbreak on Saturday 27th July, as protesters stormed political party offices in Libya's

Seema Malhotra (Feltham and Heston) (Lab/Co-op): How supportive is the Minister of creative agencies getting into prisons to help improve language and literacy, and is he aware of any barriers they might have experienced to running workshops in prisons?

Jeremy Wright: I am certainly in favour of anything that can be demonstrated to assist in reducing reoffending, but there is another test that needs to be applied: a public acceptability test. The public have certain expectations of what should and should not happen in prison, so we need to apply that filter, but I am certainly interested in imaginative ideas that will help to drive down reoffending rates.

Dr William McCrea (South Antrim) (DUP): Can the Minister assure the House that improving literacy among prisoners is provided equally across the United Kingdom? What consultation has he had with the Minister of Justice in the Northern Ireland Assembly?

Jeremy Wright: I understand the hon. Gentleman's point. I think it is important to learn from good practice wherever it happens across the United Kingdom, and we will continue to try to do that.

Open Justice - A Fight That Must Go On *Mike Dodd, guardian.uk, 25/07/13*

The rules of the Court of Protection are the reverse of what applies elsewhere

How would you feel if your beloved father developed dementia and the local council wanted to sell his house – which you live in – and family heirlooms to fund his care? Last weekend, we read that a judge in the Court of Protection ruled in just such a case and decided that a local authority could do exactly that. Essex County Council was given permission to sell a pensioner's assets – including a Lucien Pissarro painting – to help to pay for his care in a home.

It was an issue which could affect any of us – a matter of undoubted public interest. Yet under the rules of the Court of Protection – a branch of the court system that deals with cases involving people without the mental ability to make decisions for themselves, and which is thus extremely sensitive to the need to protect the privacy of those whose affairs it handles – we might never have known about it. The Court of Protection has long operated behind closed doors, and for the past four years The Independent has campaigned to open its proceedings up to public scrutiny.

District Judge Anselm Eldergill's decision to allow the case, and the name of Essex County Council, to be reported brings a rare but welcome burst of sunlight into what is often depicted as the twilight world of the Court of Protection. But there is much further to go.

The Court of Protection's rules stipulate that hearings are generally in private, excluding both press and public – the reverse of the principle of open justice which applies in almost all other courts. The work of The Independent, supported by other media companies, has meant that we have won permission to attend and report a number of these otherwise closed hearings.

Sir James Munby, the president of the Family Division and head of Family Justice, has just issued draft guidance to increase transparency in both family courts and the Court of Protection – to help to ensure that their judgments are more widely publicised, and that local authorities and expert witnesses are not routinely anonymised.

Nonetheless, the reality remains that the press is severely hampered in carrying out its role as the public's watchdog, often because of the large amounts of money needed to instruct Counsel to try to win access to these courts. The solution is for journalists to have the automatic right to attend Court of Protection hearings. If the Court of Protection rules changed so that the media was able to work together with judges on what can be published while safeguarding the interests of vulnerable people, the case of the pensioner and the Pissarro will have marked an important staging post.

Mike Dodd a journalist/media law specialist, author "McNae's Essential Law for

Proportionality: The segregation of any individual from society is a severe punishment in and of itself, but for many prisoners it is also a deeply damaging experience. I believe people should be sent to prison as punishment, not for punishment. The loss of one's liberty need not be compounded by degrading treatment or a detrimental quality of life. The effect of disenfranchisement is to dehumanise the individual. Disenfranchisement is symbolic of prisoners' perceived predicament: shut out and ignored, inside or outside of prison walls. If we want prisoners to emerge from our penal system better citizens and better human beings, rather than disaffected pessimists, then we must involve them in communities. This is as much ideological as it is practical. Democracy requires us to be inclusive. Professor Emeritus Robert Reiner of London School of Economics, attributes rises in crime to "structural inequalities and community fragmentation".

Rehabilitation: Engaging prisoners in community initiatives fosters their awareness of others and creates that all important sense of belonging to something larger than oneself. The vote epitomises this pro-social model. If we are to encourage democratic behaviour - defined by Bernard Crick as tolerance, free speech, fair play etc. - we must give prisoners the vote. This is an opportunity for prisoners to engage with society in a place where such opportunities are all too lacking. John Stuart Mill argued that participatory democracy contributes toward moral education through the sense of responsibility it imbues in people.

Without suffrage, those on the fringe will remain on the fringe. If we believe in man's potential for change, and their potential to become the civilised and reasonable humans expounded by theorists such as Locke, we must give prisoners the opportunity to engage in this process.

Human Rights: Aristotle said that man is by nature a political animal. The right to vote is considered such a precious human right because it strikes at the heart of what it is to be human. Enlightenment philosophers like Rousseau identified self governance as the natural right of every being.

Sir Winston Churchill expressed these principles of democracy in a 1946 speech: "We must never cease to proclaim in fearless tones the great principles of freedom and the rights of man which are the joint inheritance of the English-speaking world and which through Magna Carta, the Bill of Rights, the Habeas Corpus, trial by jury, and the English common law find their most famous expression in the Declaration of Independence. All this means the people of any country .have the right, and should.have the.power by constitutional action, by free unfettered elections, with secret ballot, to choose or change the character or form of government under which they dwell; that freedom of speech and thought should reign; that courts of justice, independent of the executive, unbiased by any party, should administer laws which have received the broad assent of large majorities or are consecrated by time and custom."

Historically, the right to vote is deeply evocative of emancipation. The right to vote has thus become synonymous with basic human rights and the prohibition of discrimination. This draft Bill should be about protecting the inherent equality of mankind, irrespective of one's circumstances. On this basis, it is submitted that any kind of ban on prisoners voting is unsustainable, irrespective of sentence length. It is not simply a question of what is legally robust, but what is morally robust. All prisoners deserve the same hope and inclusion. All prisoners need to be exposed to the same principles of citizenship for the

rehabilitative effects of suffrage to be most profound. While prisoners already enjoy many of the fundamental human rights, true freedom of expression is impossible without the vote.

Public Perception: Any change in voting eligibility needs to be carefully explained to the wider public in terms of its key role in the reduction of re-offending. Rehabilitation begins inside our prisons but finishes on our streets and in our homes. A public that is better informed

about rehabilitation is itself better able to assist in this process.

Administrative impact: Inside Time ran mock postal elections in 2010, gathering important data on prisoners voting. Had these votes been counted in the last election they would not have affected the results in any constituency. The Electoral Commission's postal and proxy voting mechanisms are ideally suited to prisoner voting The Inside Time survey demonstrated that participation is unlikely to be overwhelming administratively. Prisons have a high concentration of the illiterate, unskilled, and those with mental and physical health problems - all of which makes their participation in political life more difficult.

Miscarriages of Justice: Victims of miscarriages of Justice are poorly represented under the current Act. According to the Ministry of Justice, 3000 of our citizens are wrongly convicted in our Courts each year. This is an issue of immense public interest. While these prisoners struggle to clear their names from behind bars, they have little by way of a voice. Yet, it is this very minority that is best equipped, albeit unenviably so, to engage with policy discussions about penal reform. Prisoners have access to the Courts, equality before the law, and the right to appeal. Under parliamentary convention prisoners can also write to their local member of parliament in the constituency where they were registered before being placed into custody. Their cases can also be raised in parliament as Early Day Motions (e.g. EDM 865: Tony Stock - Miscarriage of Justice). Enfranchisement seems a logical step from all this. While there is a clear separation of powers, Government is responsible for sustaining an effective system of law. If we are to see such injustices handled more efficiently and expeditiously, if not avoided altogether in the future, then prisoners- particularly appellants - must have democratic rights. The wrongly convicted face a long and traumatic journey to freedom. Sean Hodgon spent 27 years imprisoned before he was found to be innocent. Suffrage based upon sentence length would exclude the majority of these cases. Granting prisoners the vote would ensure that more attention is paid to an important issue that affects thousands of innocent people and their families.

Representation: The politically excluded are the same people who disproportionately suffer social, economic and cultural exclusion. The key role of suffrage is to give this portion of society political expression through politicians who can table representations on their behalf. Adequate representation in parliament will allow politicians to more effectively probe issues facing the most underprivileged in our society. This is a key component in reducing crime, poverty, and unemployment in the long term. As Lord Ackner commented at the Conservative Party Conference in 1993, the causes of crime "lay deep in society, in the deterioration of personal standards, the family, and the lack of self discipline". Equality of suffrage makes for a better society as a whole: "Democracy creates a morally better person because it forces people to develop their potentialities" - John Stuart Mill.

This is an opportunity for our Government to finally grant universal suffrage in an acknowledgement of the natural rights of man and the founding principles of democracy. As the Duke of Cambridge once said, the best time for change "is when it can be no longer restricted".

Mark Alexander: A8819AL, HMP Gartree, Gallow Field Road, Market Harborough, LE16 7RP

Ministry of Justice - Prison Annual Performance Ratings 2013

Oakwood and Winchester rated the two worst jails their Overall performance of serious concern.11 prisons had deteriorated from Meeting the 'Majority of Targets' to' Overall Performance of Concern', they were: HMPs Altcourse, Aylesbury, Birmingham, Brinsford, Bristol, Bronzefield, Guys Marsh, Hewell, Lindholme, Pentonville, Rochester. 101 prison officers sacked in the last 5 years for mistreatment of prisoners, 216 prison officers disciplined for mistreatment of prisoners.

Automated Handwriting Analysis Software Launched

Technology that can measure a wide range of individual handwriting characteristics and parameters has been developed by a German software company. The computer-based technology has been developed for organisations involved in handwritten analysis, including forensic or criminal analysts, and profilers of missing or dead persons.

PenMetrics, developed by Paragon Software Group is able to automate the measurement of letter width, height, inclination, and other measurements, and can be subjected to further analysis for a range of purposes, including determining whether or not a piece of text was written by a particular individual.

R v Turbill and Broadw: If a defendant is charged with the wilful neglect of a person in their care who lacks capacity, the prosecution must prove that the neglegence was wilful - ie the defendant was either aware of the consequences of the negligence or could not care less as to the consequences.

R (Gavigan) v Enfield Magistrates' Court

Gavigan was given a fixed penalty notice in relation to an offence under s5 Public Order Act 1986. G contested the notice and accordingly criminal proceedings were instigated against him. The prosecution chose to proceed with a charge under s 4 of the 1986 Act, as opposed to the original section 5 matter. An abuse of process application failed.

Held: (1) Had G paid the original FPN it may have been an abuse of process to prosecute him further, but in the instant case the offer of a fixed penalty had been declined. (2) There was no abuse of process in prosecuting G for a more serious offence. (3) It might be desirable to alter the wording on the FPN.

Prisoner Literacy *House of Commons/ 2 July 2013 : Column 743*

Dominic Raab What steps is the Minister, taking to improve literacy amongst prisoners.

Under-Secretary of State for Justice (Jeremy Wright): Part of a prisoner's induction involves screening for literacy needs, and where such needs are identified, prisoners are offered teaching and support as a priority. Improving prisoners' literacy is a key objective of the learning and skills service in custody. Improving literacy skills means that a prisoner has a greater likelihood of getting and holding on to a job when released, which helps to reduce reoffending.

Mr Raab: According to a recent Ministry of Justice survey, one in five prisoners needs help reading and writing. Charities like the Shannon Trust have pioneered peer mentoring and synthetic phonics to improve literacy rates. What steps is the Minister taking to expand such innovative programmes, and does he agree that they are absolutely crucial to equipping offenders with the skills they need to go straight on release?

Jeremy Wright: I agree with my hon. Friend. He is right to cite the Shannon Trust. Its Toe by Toe project is an extremely good example of what we are discussing. We will help it in any way we can. I hope that he will hear a little more about that over the rest of the summer.

The important changes we have made to the incentives and earned privileges scheme go beyond simply what we may take away from prisoners; they are also about the incentives we give them to help other prisoners. In order to reach the enhanced level of the scheme, a prisoner will have to help someone else in prison. That is a good opportunity for more mentoring and more learning coaching of the type he describes.

R (TD) v The Commissioner of Police for the Metropolis and Another

Following an allegation of sexual assault, the claimant was arrested and his DNA sample and fingerprints were taken, however no further action was taken. By the time of the hearing, the Secretary of State for the Home Department was able to confirm that the claimant's biometric data had been destroyed but 40 pages of information in relation to his arrest and the allegation are to be retained in the form of crime reports on the Crime Report Information System (CRIS) and a record shall be retained on the Police National Computer until 2104, when the claimant would be 128 years old.

When the relevant provisions of the Protection of Freedoms Act 2012 are brought into force, it will no longer be lawful to retain the biometric data of those in the position of the claimant. Now that the claimant's data have been destroyed, there is no live issue and this application concerns only the records referred to.

The essential question in this case is how long the record may be retained. This will be resolved by striking a balance between the extent of interference, if any, with the claimant's rights enshrined in Article 8 of the European Convention on Human Rights and the use to which the police may legitimately put the information.

There was and could be no dispute but that the retention of the record of this allegation could amount to an interference with the claimant's private life and that, accordingly, Article 8 was engaged (R (L) v Commissioner of Police of the Metropolis,[2009] UKSC 3, [2010] AC 410 [27]). Disclosure is likely to affect a person's private life. But in the instant case the Commissioner was only prepared to accept that any interference was small.

In the instant case, the court said it was necessary to recall that the allegation was of a sexual nature and thus had potential use should a similar allegation be made by the same complainant against someone else or another complainant make a similar allegation against this claimant. The record of the allegation may, therefore, be of some use in the future. The record will, moreover, only be available to those who are authorised to access the CRIS. It is not disclosable to the public and the police had already shown that they were not prepared to disclose it to a potential employer for the purposes of an enhanced criminal record certificate.

In the court's view, now that only nine years have elapsed and in the knowledge that access to the information is restricted to those who seek to investigate a crime, the Commissioner has demonstrated that the use to which the records of the allegation may be put justifies their retention, at least for the time being.

However, that conclusion must be subject to an important qualification. As MM teaches, such retention should be subject to review. No provision for any review has been made which seems to the court to be a significant flaw in the policy: "There must be provided an opportunity for review in the light of the lapse of time without any use to which the record might be put. The MoPI Guidance provides for a review, so too should the Commissioner's policy".

The court held that the time has not come when it can be said that the retention of the material records relating to the claimant is a disproportionate interference with his article 8 rights. The domestic and Strasbourg case law has been fast developing. Public authorities are catching up with the jurisprudence. When considering the policy for review and retention the interests at stake may be wider than the rights of the individual concerned and the detection of crime. The striking feature on the claimant's account of the allegation in this case is that it was fabricated altogether. It is not uncommon in cases alleging sexual impropriety for evidence of a complainant's history of previous unfounded allegations, disclosed by the prosecuting authorities, to be essential to ensure a fair trial.

Metropolitan Police Service Failing to Deal Effectively with Race Complaints

A report by the Independent Police Complaints Commission (IPCC), based on an analysis of race complaints dealt with by the Metropolitan Police Service (MPS), has concluded that in general these complaints were not handled in a sufficiently robust, fair or customer-focused way. It calls for a cultural change in the way the MPS deals with such complaints, supported by training, monitoring and community feedback.

In April last year, following several high profile race related incidents, the IPCC announced it would conduct a review of how the force which is responsible for policing the UK's most diverse city handled this kind of complaint. The review monitored more than 60 referrals made by the MPS between 1 April and 31 May 2012. It also carried out a statistical analysis of all MPS racism complaints during 2011-12 and reviewed a sample of 20 of those complaints.

IPCC Commissioner Jennifer Izekor said: "Race has been, and continues to be, a critical issue for the Metropolitan Police Service. So, the way that it deals with complaints about allegedly racist behaviour by police officers is crucial to public confidence in policing among London's diverse communities. This report shows that, though there are some examples of good practice, in general there is an unwillingness or inability to deal with these complaints robustly and effectively. Too often, complaints are dismissed without proper investigation or resolution, complainants are not properly engaged with, and lessons are not learnt. This in part reflects poor complaints handling in general. But, in relation to race complaints, it can exacerbate a negative experience if the racial element is not properly addressed. It can also mean that officers are not held to account, or do not learn from their actions. We know that there is less confidence both in policing and in the complaints system among BME communities. If the Metropolitan Police Service is serious about building that confidence, there will need to be a cultural change to complaints handling. Our recommendations are designed to support that change, building on the good practice and guidance that exists. This will help ensure, as the MPS Commissioner has promised, that there is indeed zero tolerance for racist behaviour in the MPS."

The report found that: Racial discrimination was only tackled robustly where it was both overt (use of racist language) and supported by independent evidence

There was little evidence of efforts to explore allegations of racial discrimination with the complainant, or understanding of covert racism

Quality of investigations was in general poor and little or no account was taken of IPCC guidance, especially where complaints were dealt with at borough level; if there were conflicting accounts, there was little attempt to look beyond an officer's denial

Complaints resolution was delayed if there were related criminal proceedings, even for minor offences unrelated to the complaint

The quantity and quality of communication with complainants was in general poor, especially at borough level – the majority of letters were poorly written, defensive and full of jargon

There was too little evidence of a restorative approach, fixing what went wrong, identifying learning, or acknowledging a complainant's legitimate perception.

The IPCC recommends the MPS focus on:

Training and guidance for all those who deal with complaints from the public, whether at borough or DPS level

A programme of dip-sampling by the MPS' Directorate of Professional Standards and quality control of race complaints using some external expertise

Promoting feedback at a local level through borough Commanders' community networks

Use complaints to effect changes in policing policy and procedure.

IPCC Commissioner Rachel Cerfontyne Statement - Seni Lewis investigation

"We take the concerns raised by Mr Lewis' family seriously and our focus has not shifted from providing them with answers to what happened to their son. We have reopened our investigation and have determined that there is an indication that officers may have committed criminal offences and, or, behaved in a manner which would justify disciplinary proceedings.

The MPS disputes our power to make such a determination at this stage. We have directed the MPS to re-refer this incident as a recordable conduct matter which would allow us to interview the officers under criminal caution. The MPS has refused to record any conduct against the officers concerned and, as a result, we have applied to the High Court to challenge the MPS' refusal.

"Following extensive consultation with Mr Lewis' family it was agreed that they would apply to the High Court for an order to quash the findings of our original investigation. The IPCC is unable to set its original decision aside without a court order and we acknowledge and very much regret the effect this has on Mr Lewis' family. We have informed them that we will not contest the claim and that we will pay their costs. The MPS has indicated that it would not contest any claim to have the original findings of the investigation quashed.

"The IPCC's application was made on Monday, 15 July, and we have asked the court to expedite the application. We hope that adopting this course of action will enable us to provide the answers the Lewis family has waited too long for."

Young Offenders: Alternative Clothing

Baroness Stern: How many children detained in (1) young offender institutions, (2) secure training centres, and (3) secure children's homes, have worn alternative clothing under suicide prevention and self-harm management procedures; and how many times in the same period force was used on such children to replace normal clothing with alternative clothing.

Minister of Justice (Lord McNally): It is not possible to provide information on the number of children detained in the youth estate who have worn alternative clothing under suicide prevention and self-harm management procedures; or the number of times in the same period, force was used on such children to replace normal clothing with alternative clothing because it would require the manual inspection of each individual's record, which could only be done at disproportionate cost.

The safety of young people in custody is our highest priority. Self-harm management in the under-18 secure estate requires coordination between safer custody leads, child protection co-ordinators and wider multi-disciplinary teams, to ensure a young person is kept safe and their risk of self-harm is reduced.

Young Offenders: Illness

Baroness Stern to ask Her Majesty's Government how many children detained in (1) young offender institutions, (2) secure training centres, and (3) secure children's homes, have been diagnosed or received treatment for a terminal or life-threatening illness in the last five years.

Minister of Justice (Lord McNally): It is not possible to provide information on the number of children detained in the youth estate who have been diagnosed or received treatment for a terminal or life-threatening illness in the last five years. The Youth Justice Board does hold some data for secure training centres but it would require the manual inspection of each individual's record, which could only be done at disproportionate cost.

Commission Refers the Case of K to Appeal Court

CCRC has referred the robbery conviction of K to the appeal court. K , was convicted more than 20 years ago for taking part in a robbery. K denied any involvement but was convicted and sent to prison. The Commission has referred K's conviction to the appeal court because it has identified material which was not disclosed at the time of the trial and which, had K's defence team known about it, could have had a significant impact on the conduct and outcome of the case. Some of the material on which the referral is based is of a sensitive nature. The detailed reasons for the referral have been supplied to the appeal court in a confidential annex. It will be for the court to decide whether or not to quash the conviction and to decide what, if anything, it is appropriate to disclose about the identity of the appellant and the reasons for referral.

K's identity has not been revealed in order to protect the security of individuals involved in the case.

Commission Refers Rape Conviction of N to Court Of Appeal

Mr N was convicted of rape in 2008 and sentenced to ten years' imprisonment. He appealed in 2009 but the appeal was dismissed. Mr N applied to the Commission in 2010.

Having conducted a detailed review of the case, which included commissioning expert opinion, the Commission has decided to refer the case to the Court of Appeal. The referral is made on the basis of fresh expert evidence which raises a real possibility that the Court of Appeal will quash the conviction.

CCRC Refers Conviction of Human Trafficking Victim J to Appeal Court

J, a Vietnamese national, was arrested in 2012 at a house which had been adapted for the purpose of growing cannabis plants. He was 17 years old at the time. He pleaded guilty in the Youth Court to the production of cannabis and was sentenced to a six month Detention and Training Order. J was prosecuted, convicted and sentenced in spite of the fact that material was available, during that process, which should have alerted the authorities concerned to the possibility that J was a child victim of human trafficking. The material included a pre-sentence report that detailed J's claims that he had been transported by lorry to Russia and France before arriving in the UK where was forced to grow cannabis and beaten when he tried to escape. In sentencing J, the Youth Court noted that he had been "exploited".

Following his conviction, a bail officer at the Young Offenders Institution where he was detained applied, under the National Referral Mechanism, for J to be considered as a potential victim of human trafficking. In October 2012, the UK Border Agency decided that there were conclusive grounds to believe that J was a victim of human trafficking, taking into account evidence that Vietnam is the number-one source country for potential victims of child trafficking into the UK and that children are trafficked primarily for the purposes of labour exploitation in cannabis-growing operations.

The Commission has decided to refer J's conviction for an appeal at the Crown Court. The referral is made on the basis that there is new evidence to show that J was a credible victim of human trafficking and was compelled to commit a criminal offence as a direct consequence of his trafficked situation. In those circumstances, there is a real possibility that the Crown Court will vacate his guilty plea and find that it was an abuse of process to prosecute him without due regard to the UK's obligations under Article 26 of the Trafficking Convention. In the circumstances, there is a real possibility that J's conviction will not be upheld.

This case of J is one of two human trafficking cases that have so far been referred to the appeal courts by the Criminal Cases Review Commission. Other cases raising similar issues are currently being investigated by the Commission.