of issues. Faith provision was valued by prisoners. Health care had improved but still had a way to go to provide good outcomes in all areas. Provision for mental health had also improved, services to support prisoners who self-harmed needed to be better. Prisoners disliked the food and food handling was poor. Menu cycle did not provide a balanced diet.

Most prisoners spent too long locked in their cells and lacked opportunity to spend time in the open air. There was significant regime slippage, frequent and unpredictable lock-downs, and activities were often cancelled at short notice, all of which was fundamentally disrespectful. Management and leadership of learning and skills were poor and coordination needed to be improved. There were not enough activity places, and what was available was poorly utilised. It was of particular concern that only a small number of prisoners accessed work or education regularly, and that levels of attainment and accreditation were low. The curriculum was too narrow and was not matched to the needs of prisoners, employers or the local labour market. Quality assurance and self-evaluation arrangements were weak and had not identified sufficiently the aspects of the provision that were underperforming. Too many prisoners with low levels of literacy and numeracy did not have their needs met.

However, we found that the library was excellent, the gym offered some good opportunities, and relationships between teachers and prisoners were good. Strategic management of resettlement had improved. There was a detailed strategy and the offender management unit was well established, with every prisoner allocated a sentence manager. Coordination of lifer case management – which remained the responsibility of Maghaberry Prison – was poor and there had been no annual lifer reviews since 2011. The working-out scheme was underused with only a few prisoners involved in the past year. The home leave scheme was working well and public protection arrangements had improved. An appropriate range of offending behaviour programmes was offered, and Parole Commissioners' requirements were being met. The Northern Ireland Prison Service (NIPS) funded a range of voluntary groups to assist prisoners and their families with practical matters, such as accommodation, benefits and substance misuse. There was a good visitor centre and parenting courses.

To conclude, it would be wrong to see this as anything other than a concerning report. Pockets of good practice were evident but, in general, progress was slow and issues to be addressed were fundamental. The prison needs to reassert its key purpose in addressing the needs of vulnerable young men. Their needs should be put first and the prison organised in a way that prioritises their safety, develops mutual respect, and helps them to acquire the skills and resources to enable a sustainable resettlement. We have made a number of recommendations that should assist that process. *Brendan McGuigan Chief Inspector oCriminal Justice Norhern Ireland*

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, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 446 (10/10/2013)

Role of the Advocate at Trial

In his final judgment in the Court of Appeal, Lord Justice Judge has given some interesting guidance given on the role of the advocate in a contentious trial. The case is R v Farooqi & Ors [2013] EWCA Crim 1649 and the judgment is that of the court. The advocate whose conduct generated the appeal is named but declined to respond to the allegations. His version of events is absent from the judgment. The guidance on the role of the advocate is so important it is worth reproducing parts in full:

107. …The client does not conduct the case: that is the responsibility of the trial advocate. The client's instructions which bind the advocate and which form the basis for the defence case at trial, are his account of the relevant facts: in short, the instructions are what the client says happened and what he asserts the truth to be. These bind the advocate: he does not invent or suggest a different account of the facts which may provide the client with a better defence.

108. Something of a myth about the meaning of the client's "instructions" has developed. As we have said, the client does not conduct the case. The advocate is not the client's mouthpiece, obliged to conduct the case in accordance with whatever the client, or when the advocate is a barrister, the solicitor "instructs" him. In short, the advocate is bound to advance the defendant's case on the basis that what his client tells him is the truth, but save for well-established principles, like the personal responsibility of the defendant to enter his own plea, and to make his own decision whether to give evidence, and perhaps whether a witness who appears to be able to give relevant admissible evidence favourable to the defendant should or should not be called, the advocate, and the advocate alone remains responsible for the forensic decisions and strategy. That is the foundation for the right to appear as an advocate, with the privileges and responsibilities of advocates and as an advocate, burdened with twin responsibilities, both to the client and to the court.

109. In the trial process the advocate is subject to some elementary rules. They apply whether the advocate in question is a barrister or solicitor, and to the extent that the rules of professional conduct of either profession are not consistent, they should be made so. In the forensic process the decision and judgment of this court bind the professions, and if there is a difference, the rules must conform with the decisions of the court.

By way of emphasis, in the course of any trial, like everyone else, the advocate is ultimately bound to abide by the rulings of the court. If a remedy is needed, the rulings are open to criticism in this court, and if they are wrong, their impact on the trial and the safety of any conviction can be fully examined. Although the judge is ultimately responsible for the conduct of the proceedings, the judge personally, and the administration of justice as a whole, are advantaged by the presence, assistance and professionalism of high quality advocates on both sides. Neither the judge nor the administration of justice is advantaged if the advocates are pusillanimous. Professional integrity, if nothing else, sometimes requires submissions to be made to the judge that he is mistaken, or even, as sometimes occurs, that he is departing from contemporary standards of fairness. When difficult submissions of this kind have to be made, the advocate is simultaneously performing his responsibilities to his client and to the admin-

istration of justice. The judge, too, must respect the reality that a very wide discretion is vested in the judgment of the advocate about how best to conduct the trial, recognising that different advocates will conduct their cases in different ways, and that the advocate will be party to confidential instructions from his client from which the judge must be excluded. In general terms, the administration of criminal justice is best served when the relationship between the judge and the advocates on all sides is marked by mutual respect, each of them fully attuned to their respective responsibilities. This indeed is at the heart of our forensic processes.

110. For the purposes of these appeals we shall highlight some of the further rules which appear to have been significantly infringed.

111. The advocate cannot give evidence or, in the guise of a submission to the jury, make assertions about facts which had not been adduced in evidence. That is inconsistent with the proper function of an advocate. The importance of the rule is particularly stark whenever the defendant elects not to give evidence in his own defence. Farooqi failed to do so, and we shall shortly address the complaint against Mr McNulty's competence arising from this decision. Whatever the circumstances, the advocate cannot supply the evidence that the defendant has chosen to withhold from the jury.

Self-evidently his function is entirely distinct from that of a witness. When the advocate confines himself to commenting on or inviting the jury to draw inferences from aspects of the evidence which has been given, this principle is not infringed. But as we have demonstrated in the narrative of the facts, Mr McNulty went much further.

112. Mr McNulty's critical comments about prosecution witnesses were advanced without the witness (or the prosecution) having been given a fair opportunity to address and answer the criticism. The fairness principle operates both ways. The defendant must have a fair trial. It is however equally unfair to an individual witness to postpone criticism of his conduct until closing submissions are made to the jury, not least because if given the opportunity, the witness whose behaviour is impugned may have a complete or partial answer to the criticism. All this is elementary.

113. We do not suggest that the principle of fairness to the witness requires the somewhat dated formulaic use of the word "put" as integral to the process. Assuming that there is material to justify the allegation, "Were you driving at 120 mph?" is more effective than, "I put it you, that you were driving at 120 mph?" What ought to be avoided is the increasing modern habit of assertion, (often in tendentious terms or incorporating comment), which is not true cross-examination. This is unfair to the witness and blurs the line from a jury's perspective between evidence from the witness and inadmissible comment from the advocate. We withhold criticism of Mr McNulty on this particular aspect of his cross-examination because he was following a developing habit of practice which even the most experienced judges are beginning to tolerate, perhaps because to interfere might create difficulties for the advocate who has been nurtured in this way of cross-examination. Nevertheless we deprecate the increasing habit of comment or assertion whether in examination in chief, but more particularly in cross-examination. The place for comment or assertion, provided a proper foundation has been laid or fairly arises from the evidence, is during closing submissions to the jury.

114. One further aspect of the principle that the trial process is not a game is that the advocate must abide and ensure that his professional and lay clients understand that he must abide by procedural requirements and practice directions and court orders. The objective is to reduce delay and inefficiency and enhance the prospect that justice will be done. Ambush defence or arguments are prohibited.

Report on an Announced Inspection of Hydebank Wood Young Offenders Centre

Inspection 18 -22 February 2013 by the Chief Inspector of Criminal Justice in Northern Ireland, Her Majesty's Chief Inspector of Prisons, the Regulation and Quality Improvement Authority and the Education and Training Inspectorate

Inspectors were concerned that:

- Most prisoners reported feeling safe but many felt victimised by other prisoners or staff
- although self-harm incidents were low, attitudes to this issue were sometimes complacent
- management of security was reactive and arrangements often lacked proportionality
- We had limited confidence in the prison's approach to tackling what was perceived locally to be a drug problem - promotion of equality lacked any sophistication even in priority areas
- Discrepancies in outcomes and perceptions between Protestant and Catholic prisoners were not well understood or effectively challenged
- Catholic respondents were more negative than others about a wide range of issues
- Prisoners disliked the food and food handling was poor
- There was significant regime slippage, frequent and unpredictable lock-downs,
- Activities were often cancelled at short notice, all of which was fundamentally disrespectful
- Of particular concern only a small number of prisoners accessed work or education regularly
- Curriculum was too narrow and was not matched to the needs of prisoners, employers or the local labour market - Management and leadership of learning and skills were poor
- Coordination of lifer case management – the responsibility of Maghaberry Prison – was poor and there had been no annual lifer reviews since 2011

Chief Inspectors' Foreword: Hydebank Wood is Northern Ireland's main young offender facility holding just over 180 young men, although arrangements are complicated by sharing the site with women prisoners (Ash House). In recent years, the lack of continuity in management has been a significant feature which might, in part, have contributed to some disappointing findings at this inspection. Across the range of healthy prison tests we assessed, only in resettlement work were outcomes for prisoners reasonably good. Outcomes in other tests were not sufficiently good or poor. However, the implementation of our previous recommendation ensuring that 17-year-olds would no longer be sent to Hydebank Wood was a commendable improvement.

The overall safety of the institution was a concern. Most prisoners reported feeling safe but many felt victimised by other prisoners or staff. There had been inertia in developing a robust approach to violence reduction, and more needed to be done to challenge poor behaviour effectively. Lessons had not been fully learned from recent deaths in custody, and although self-harm incidents were low, attitudes to this issue were sometimes complacent. Care provided to the most vulnerable could be improved.

Management of security was reactive and arrangements often lacked proportionality, although disciplinary procedures were generally fair. Use of segregation had reduced but the facility and regime were poor. Recorded use of force was not high but systems to ensure accountability for its use were weak. We had limited confidence in the prison's approach to tackling what was perceived locally to be a drug problem, or in supporting those with drug issues. The prison was clean and physical conditions were mostly reasonable. We observed some very good staff/prisoner interactions but others which suggested disengagement and indifference on the part of some staff.

Promotion of equality lacked sophistication even in priority areas. Discrepancies in outcomes and perceptions between Protestant and Catholic prisoners were not understood or effectively challenged. In our survey, Catholic respondents were more negative than others about a wide range

Low level anti-social behaviour was challenged but more needed to be done to deal with the understandable tensions of communal living in such a confined and restricted environment. Lessons had not been fully learned from a notable death in custody at Ash House, and care provided to the most vulnerable was too often inadequate.

Many security arrangements were overly restrictive, often instigated to address issues in the YOC, and had a disproportionate consequential impact on women. Adjudications were well managed and segregation was not used. Use of force was not high but governance and accountability needed to be better. Strategic management of substance misuse and testing arrangements did not provide reassurance that the prison was on top of what was perceived to be a drug problem. Services to support substance misusers were under-developed.

Ash House was clean and physical conditions were mostly good. But for longer stay residents the environment was claustrophobic and restrictive. Staff-prisoner relationships were generally good too, although the promotion and monitoring of equality and diversity were weak. Faith provision was valued by prisoners, and health care had improved but still had a way to go to provide good outcomes in all areas. Provision of mental health services had also improved, although support for prisoners who self-harmed needed to be better. Prisoners disliked the food. The menu cycle did not provide the opportunity to have a balanced diet and there were too few opportunities for self-catering.

Purposeful activity provision was very poor and had got worse, from an already very low base seen at the last inspection. It was worse for the women prisoners than the men held in HBW. Time out of cell and outside exercise were too often curtailed for spurious reasons. There were insufficient activity places for the population, and what they had was poorly used. The quality of what was delivered was also mixed and too much lacked challenge, or was poorly taught. Vocational training opportunities were very limited.

Too many prisoners with poor literacy and numeracy were not getting the support they needed. The paucity of opportunities in this area had a negative affect on equipping women for release and the employment market. The library and gym, in contrast, offered a positive experience and were well used.

Strategic management of resettlement had improved but the needs of the prisoners were not well enough understood to ensure provision fully met need. Offender management arrangements were well developed and all prisoners, including those on committal, were seen by an offender supervisor. Engagement with external public protection structures had improved, although internal communication processes needed to be better, as did support for indeterminate sentence prisoners. Provision across the reducing reoffending pathways was adequate, although impeded by the poor purposeful activity provision, which limited achievement of some sentence planning targets. Victims of domestic violence or sex workers were also not effectively identified and virtually no support was offered to them, which again limited the effectiveness of interventions.

This inspection raised a number of significant concerns – not least, it is wrong to run a female prison at the margins of an overwhelmingly male establishment. The impact on outcomes for the women was, in our view, fundamentally disrespectful. The prison was safe but little was done to equip women with meaningful skills, and preparation for release and resettlement needed to be a lot sharper. Management and many staff appeared confused about the future direction of the prison and its core purpose. In our view, there needed to be a radical rethink of the approach to the imprisonment of women in Northern Ireland.

Brendan McGuigan Chief Inspector of Criminal Justice Norhern Ireland

Peter Kane - Conviction by Character Assassination Quashed

'We have to say that the evidence leads one to think that the police had had the appellant in their sights, and no doubt for cause, for a long time.' Justices, Davis, Davies and Bevan

2. At various dates in November 2011 in the Crown Court at Bournemouth, the appellant, Peter Kane, now aged 27, pleaded guilty to seven particular counts on an indictment, being variously counts of possessing criminal property, converting criminal property, fraud, attempted involvement in money laundering and entering into a money laundering arrangement. Pleas on two of those counts were only entered at a very late stage, indeed the date fixed for trial. In addition, he was also facing a count of blackmail [of Emily Legge] on another indictment which had previously been joined with the indictment containing the other seven counts. In due course he was convicted on that count.

7. On 25th April 2011 Emily Legge purported to make a retraction statement. In the event, however, she did give evidence at the trial against the appellant.

9. The prosecution case therefore was that the appellant had made the calls to Emily Legge demanding the money and making threats if she did not pay up.

15. The first objection is that the judge had been wrong to reject the submission made on the first day of trial, and after the guilty pleas on the last two counts of money laundering had been tendered by the appellant, that the remaining count of blackmail be severed from the trial against the co-accused on the remaining counts of money laundering. The second objection is that the judge was wrong to permit to be admitted, as purported bad character evidence, voluminous evidence as to, among other things, the appellant's past dealings and his close involvement or association with others having extensive criminal convictions. There was no dispute however that his pleas of guilt on the various money laundering charges could be adduced if there were a joint trial. In the event the judge first rejected the application to sever and subsequently acceded to the bad character application. The matters thus proceeded.

18. We have to say that the evidence leads one to think that the police had had the appellant in their sights, and no doubt for cause, for a long time. The fact remains that the appellant had never been charged with any drugs dealings or drugs related offences, nor had he been charged with any relevant kind of conspiracy. Indeed it was common ground that he had no relevant previous convictions at all. What the prosecution nevertheless sought to adduce is illustrated by the revised opening note which was intended to set out the basis for the prosecution's opening speech. It was prepared by Mr Richards, appearing then, as now, for the prosecution, with the assistance of his junior. The opening note was 119 paragraphs long. Of those paragraphs only 14 of them related directly to the primary facts of the count of blackmail taken on its own. The rest almost entirely related to the bad character evidence which it was proposed be put before the jury.

41. In these very unsatisfactory circumstances, this court must interfere. The conviction in this case is quashed. This court cannot be satisfied that the conviction arising was safe. Indeed, we have to say in fairness to this appellant who may not in general terms be a man deserving of much sympathy, that in our view he simply did not receive a fair trial. We trust that applications of this kind will not hereafter be pursued by the prosecution in Crown Courts in the way in which they were pursued here.

Crown Prosecution Service at conclusion of trial said: 'There will not be any application for a retrial in respect of Mr Kane, given the length of time he has served in any event and the nature of the complainant, Miss Legge, a young woman, she is vulnerable, measures need to be taken for her protection.'

Early Release Ended By Grayling In Right Wing Bidding War *Raymond Peytors - theopinionsite.org*

"It's outrageous that offenders who commit some truly horrific crimes in this country are automatically released from prison halfway through their custodial sentence, regardless of their behaviour, attitude and engagement in their own rehabilitation." Chris Grayling Justice Secretary

Scrapping early release will end rehabilitation, cost more and put the public at risk In a blatantly political move, Justice Secretary, Chris Grayling has announced that the automatic early release of prisoners convicted of child rape or certain terrorist offences is to be scrapped. What Grayling has not said clearly and publicly is that this is simply a first step towards scrapping early release altogether for all offences; something he has always wanted to do for purely political reasons.

He also knows that with the increasing delays in Parole Board hearings (up to 1,800 cases are delayed at any one time), his new policy will effectively end any possibility of early release for those affected; something that will appeal to right wing Tories. Even those who do get a hearing will stand little chance of release when assailed by often inaccurate and misleading reports from ambitious, career seeking probation officers who live in a risk-averse world of their own creation.

Although it is the child rape and terrorist offences that have grabbed the headlines, Grayling has in fact compiled a list of some 20 different offences which will be affected by the new law that is to be introduced in Parliament in the New Year. Whilst Grayling strongly signalled this move at last week's Conservative party conference, the fact that he has made this announcement now demonstrates that he has no stomach for being overshadowed by the Home Secretary, Theresa May.

As TheOpinionSite.org has pointed out previously, May and Grayling have been engaged in a bidding war for some time now, each one anxious to appear more right wing than the other. Grayling's new policy on early release is simply part of that war.

There is no thought given to the families, children or friends of those who would be in prison longer and who are often put there on the basis of highly suspect and unreliable evidence. May still hopes one day to get rid of David Cameron and to take over the Tory party; something she is unlikely to do as she is a poor public speaker and does not go down well on camera. Grayling on the other hand knows that he is simply not clever enough to be leader of a fractious Tory party and instead is content to follow May as Home Secretary.

The end result of this nasty little tussle is that the Tory party – already aggressively lurching to the right on immigration, benefit reform and unemployed young people – has manoeuvred itself into a position where it must go for broke; which inevitably means going even further to the right.

Chris Grayling made a huge fist of his job at the Department of Work and Pensions and is anxious to make up political ground by appearing to be the most right-wing (some have even used the word 'fascist') Justice Secretary the country has ever seen. His latest announcement therefore has nothing to do with justice at all but has everything to do with political ambition. This is demonstrated for example by the fact that out of the 20 possible offences on his list, one of which is Grievous Bodily Harm with Intent, Grayling chose to publicise the 'child rape' and various terrorist offences, some of which have in the past led to very doubtful and dubious convictions. Grayling knows that the key to his political ambition is to use emotive language and knows full well that there is nothing more emotive to the tabloid reading public than child sex offences; not least because the modern public has been taught over a period of many years now that all men are paedophiles and that all children are in danger from anyone who does not wear a skirt.

In her bid for power, Theresa May previously attempted to slap the UK Supreme Court in the face after the court ruled that those on the Sex Offenders Register for life must have some means of appeal. After the ruling, May announced revisions to the Notification Requirements that affect sex

Prison Service (SPS) said it was "now a police matter". The incident started at around 12:30 BST, Saturday 5th October 2013. The number of inmates involved has not been revealed but an SPS spokeswoman said the officers were "suffered only minor injuries". The incident comes less than ten days after a report on Low Moss revealed a total of 165 assaults took place at the prison last year. Ten involved assaults on staff; there were 140 assaults by prisoners on fellow inmates while a further 15 were recorded as serious assaults involving prisoner-on-prisoner violence. But the report, by HM Chief Inspector of Prisons David Strang, said Low Moss had "appropriate staffing levels" to "ensure good order is maintained". The report though highlighted at least two areas of concern within the prison: an on-going dirty protest and the short amount of time allocated to prisoners receiving methadone. The prison received its first inmates in March of last year and at the time the SPS described the complex as "state-of-the-art".

Report on an Announced Inspection of Ash House Women's Prison

This inspection raised a number of significant concerns – not least, it is wrong to run a female prison at the margins of an overwhelmingly male establishment. The impact on outcomes for the women was, in our view, fundamentally disrespectful.

Inspection 18 - 22 February 2013 - Inspectors were concerned that:

- Women continued to be held in a predominantly male prison, which was having a significant and intractable impact upon outcomes they experienced - Women were marginalised and restricted in their access to facilities and services - There was evidence of verbal intimidation from male prisoners from time to time - Women continued to travel with men during escorts and were regularly subject to verbal abuse - Women needlessly strip searched on arrival and randomly after visits, which was excessive- Lessons had not been fully learned from a notable death in custody at Ash House- Support for prisoners who self-harmed needed to be better- Care provided to the most vulnerable was too often inadequate.- Security arrangements were overly restrictive, often instigated to address issues in the YOC, and had a disproportionate consequential impact on women.- For longer stay residents the environment was claustrophobic and restrictive- Prisoners disliked the food, menu cycle did not provide the opportunity for a balanced diet- Too many prisoners with poor literacy and numeracy were not getting the support they needed. The paucity of opportunities in this area had a negative affect on equipping women for release and the employment market - Victims of domestic violence or sex workers were also not effectively identified and virtually no support was offered to them

Chief Inspectors' Foreword: Ash House is Northern Ireland's only female prison and holds up to 71 women in one of the units located in Hydebank Wood (HBW) Young Offenders Centre (YOC).

Overall this was a disappointing inspection, in particular because women continued to be held in a predominantly male prison, which was having a significant and intractable impact upon outcomes they experienced. Women were reasonably well cared for but they were inevitably marginalised and restricted in their access to facilities and services.

There was also evidence of verbal intimidation from male prisoners from time to time. Only the long-promised closure and replacement of Ash House would resolve the problems we saw. Recent instability in the management team had also contributed to the problems we highlight, and there was a clear gap evident in leadership and direction.

Women continued to travel with men during escorts and were regularly subject to verbal abuse. Most prisoners reported feeling safe, but too many felt victimised by staff. All women were needlessly strip searched on arrival and randomly after visits, which was excessive.

sider therefore that the fairness of the trial was, or might have been perceived to be, prejudiced in any material manner. Having considered all the material, it is unable to hold that it has been demonstrated that a miscarriage of justice has occurred."

Fraser's conviction at the High Court in Edinburgh followed a five-week retrial. The court heard that the ex-fruit and vegetable wholesaler told a former friend that he paid a hitman £15,000 to kill his wife after she began divorce proceedings. He was found guilty of murder in 2003 but his conviction was quashed in 2011. A fresh trial was granted after the highest court in the land, the Supreme Court in London, ruled that the initial conviction was unsafe.

Update on Investigation Into the Death Of Thomas Orchard

The IPCC investigation into the death of Thomas Orchard led to a file of evidence submitted to the Crown Prosecution Service and concerns Mr Orchard's time in custody and relates to two custody detention staff, three police officers, one custody sergeant and a nurse who is employed by a contractor. 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 IPCC also submitted a file of evidence to the Health and Safety Executive in August for them to consider corporate charges. The IPCC identified a risk in the way that an emergency restraint belt (ERB) was used on Mr Orchard as a spit hood by Devon and Cornwall Constabulary and wrote to all chief constables in England and Wales on 1 November 2012. The letter expressed concern that use of an ERB in this way posed a risk to individuals. The IPCC highlighted the need for any other body using an ERB in such a way to carry out risk assessments. The IPCC investigation has concluded and has looked at CCTV footage; taken statements; interviewed officers and custody staff; and reviewed relevant policies and training. The investigation has also looked at restraint techniques and the use of emergency restraint belts used by the force during Mr Orchard 's arrest and detention.

Ticu v. Romania Two Breaches of Aticle 3

The applicant, Nicolae Ticu, is a Romanian national who was born in 1973 and is currently serving a 20-year sentence in Bacau Prison for participating in armed robbery occasioning the victim's death. In childhood he suffered from an illness which led to considerable delays in his mental and physical development. Relying in particular on Article 3 (prohibition of torture and of inhuman and degrading treatment), Mr Ticu complained about the poor conditions of detention in the various prisons where he had been serving his sentence, and especially about overcrowding and shortcomings in the provision of medical treatment. He criticised in particular the authorities' failure to carry out an effective investigation into attacks against him by various fellow prisoners. Violation of Article 3 (treatment) – on account of the applicant's conditions of detention Violation of Article 3 (procedure) – on account of the failure to carry out an effective investigation into the ill-treatment complained of by the applicant Just satisfaction: EUR 24,000 (non-pecuniary damage) and EUR 350 (costs and expenses)

HMP Low Moss, Staff Hurt in Prison Disturbance

Two members of staff suffered minor injuries in a disturbance lasting around seven hours at Scotland's newest jail. The nature of the incident at Low Moss Prison, East Dunbartonshire, is not known but it is believed a number of inmates barricaded themselves in cells. The injured staff were taken to hospital as a precaution and later returned to the prison in Bishopbriggs. The Scottish

offenders in the UK and made what were largely seen as unnecessary and politically motivated changes; her changes, by arrangement, were duly reported in the tabloid press. Since then of course, May has announced that she wishes to scrap the Human Rights Act (our only safeguard against excessive state power), deport as many immigrants as possible – legal or otherwise – and find ways of criminalising more ordinary people who might otherwise be tempted to speak out against government policy. All this in addition to her beloved "snoopers charter" which would enable the police to spy on anybody at any time and in pretty much any way.

Grayling sees himself as falling behind on points and now intends to correct the situation. With regard to the practical implications of Grayling's latest announcement on early release, the scrapping of automatic early release will do nothing at all for public protection. At present, most prisoners are released at the halfway point of their sentence but spend the rest of the sentence on licence in the community under strict monitoring by the probation service and the police. If Grayling gets his way, prisoners are likely to opt to spend the whole of their sentence in prison and then come out without a licence and with only minimal supervision, if any at all.

Furthermore, as TheOpinionSite.org has made clear in previous articles, policies such as getting rid of automatic early release for those convicted of serious offences will have the effect of dramatically increasing the long-term prison population. This of course puts an extra burden on taxpayers who have to fund both the increase in prisoner numbers and the increased length of time spent in custody. Whilst this new announcement from the Justice Secretary may appeal to the right wing Tory faithful, it will do nothing for the furtherance of Justice, will not improve the protection of the public, will cost a fortune for the taxpayer and in reality will serve nobody – other than Chris Grayling himself.

The previous Labour government introduced early release at halfway and this policy was continued by the coalition until the regrettable removal of Ken Clarke, Grayling's predecessor. The early release policy was put in place for a very simple reason – it worked. Early release aids and improves the rehabilitation of offenders as true rehabilitation takes place in the community, never in custody; prison is a false and artificial world and has nothing to do with reality. Individual cannot truly rehabilitate themselves in custody. The early release policy also reduced the number of prisoners which gave welcome relief to the taxpayer who ultimately has to pay for everyone who goes through the prison gate, be they prisoners or staff.

So for the sake of his own political ambitions and by seeking to appear even more right wing than his arch rival Theresa May, Grayling is going to cost the taxpayer more, effectively end any real notion of rehabilitation and dishonestly convince the general public that they are safer than they really are. Chris Grayling would perhaps be better titled the 'Secretary of State for Imprisonment'. TheOpinionSite.org makes this point simply because Grayling has obviously lost touch with the most fundamental and most basic principles of British law:

According to the law, prisons are not places of punishment but of reform. The individual's loss of liberty is the punishment imposed by the state and he goes to prison as punishment, not for punishment. Once this principle is jettisoned, Britain becomes no better than North Korea, Iran or any other authoritarian state one cares to mention.

Grayling – who has stated publicly that he wants prisons to be places of punishment - knows a great deal about revenge, populism and political ambition…but regrettably knows nothing about justice. In our view he is a disgrace to his office of Justice Secretary. He is utterly devoid of human compassion, totally lacks common sense, is overly dangerously ambitious, selfish and interested only in his own political progression; a progression that may be halted much sooner than he thinks when serious and sensible people wake up to what his new policy on early release really means – and what it is going to cost.

Herman Wallace - Angolan Three - 41 years in Solitary Never Gave an Inch

41 years ago, deep in rural Louisiana, three young black men were silenced for trying to expose continued segregation, systematic corruption, and horrific abuse in the biggest prison in the US, an 18,000 acre former slave plantation called Angola.

Wallace a former Black Panther who served 41 years in solitary confinement has died days after a US federal judge overturned his conviction for the murder of a prison guard. Herman Wallace was freed on Tuesday 1st October 2013 after Judge Brian Jackson ruled his 1974 trial had been “unconstitutional” and ordered his immediate release.He was suffering from terminal liver cancer and died with supporters by his side early this morning, Friday 4th October 2013 he was 71.

The release of terminally-ill Herman Wallace, exonerated after 41 years in solitary, only redoubles efforts to end this cruel abuse. It was a day that his supporters had hoped for for so long. Finally, Herman Wallace, of the "Angola Three", has been released from a hellish four decades of solitary confinement in Louisiana, after a federal judge overturned on Tuesday his conviction for the murder of a prison guard in 1972.

It is a victory tinged with sadness because it comes so late: 71-year-old Wallace had very little time left to live. He lay dying in a Louisiana hospital, suffering from the liver cancer that was belatedly treated. For many weeks, as he lost weight and the tumour grew, the Elayn Hunt Correctional Center where he was incarcerated was not equipped to adequately address his illness. There is much to reflect on in the way Wallace has been treated. For example, even in his final hours in prison, the warden refused to obey the judge's order to release him until a judge threatened the warden with contempt of court. And his exoneration has highlighted the flaws that littered his original trial.

Even as Wallace's strength waned, however, the need for action hasn't diminished. Albert Woodfox, also of the Angola Three, remains incarcerated in Louisiana: he is now the longest known serving person in solitary confinement in the United States. Held at the David Wade Correctional Center, for the past six months this 68-year-old has endured daily strip and cavity searches, sometimes up to six times a day. Woodfox is currently waiting to find out whether the courts will order an end to this deplorable practice. While the struggle for Woodfox's release will continue, the renewed focus on the fate of these two members of the original Angola Three should bring attention to others suffering the abuse of long-term isolation in the United States. (The third, Robert King, spent 29 years in solitary confinement before his conviction was overturned and he was released in 2001.) Kenny "Zulu" Whitmore, also a former Black Panther like Wallace and Woodfox, has similarly spent decades in solitary confinement in Angola prison.

Wallace's emotional, though tragically late release finally provided his supporters with a moment to rejoice. But even as he dealt courageously with his prognosis, Herman reminded us that he does not want the campaigning on behalf of other prisoners to end.

Helen Kinsella, theguardian.com, Wednesday 2 October

Angola Three background: Peaceful, non-violent protest in the form of hunger and work strikes organized by inmates caught the attention of Louisiana’s elected leaders and local media in the early 1970s. They soon called for investigations into a host of unconstitutional and extraordinarily inhumane practices commonplace in what was then the “bloodiest prison in the South.” Eager to put an end to outside scrutiny, prison officials began punishing inmates they saw as troublemakers.

At the height of this unprecedented institutional chaos, Albert Woodfox, Herman Wallace, and Robert King were charged with murders they did not commit and thrown into 6x9 foot solitary cells. Robert was released in 2001, and Herman in October 2013, but Albert remains in solitary, continuing to fight for his freedom.

deal with the issue of cautions. He said that one reason for the use of cautions could be that they are "cheaper" for police as "they don't have to prepare so much paperwork to bring it to court."

There were 167,758 simple cautions issued to adults in 2012, according to MoJ figures.Among those, there were 962 cautions for possession of knives, 1,543 for possession of weapons, seven for child pornography and prostitution, 1,560 for cruelty to or neglect of children, 268 for possessing indecent photographs of children and 54 for supplying or offering to supply Class A drugs.

Taser Victim Sues Police Despite IPCC Saying Use Was Justified

James McCarthy is suing Merseyside police after he was hit twice with a Taser at a hotel in Liverpool in September last year. His solicitor, Sophie Khan, said: "James McCarthy does not accept the findings of the IPCC investigation. He disputes that the Taser use was justified. My client suffered a cardiac arrest as a result of the Taser and sustained a serious injury following the incident. "Mr McCarthy is now pursuing a civil claim against Merseyside police for damages. Mr McCarthy has asked for his privacy to be respected whilst he recovers from his injury." The Independent Police Complaints Commission (IPCC) said use of the stun gun was justified, but added that one of the officers involved should have more training.

Twice-Guilty Nat Fraser Loses Appeal Against Murder Conviction *Indpendent, 04/10/13*

Nat Fraser has lost an appeal against his conviction for murdering his wife, raising hopes of an end to 15 years of uncertainty for her family. The 54-year-old former businessman has twice been found guilty of organising the murder of Arlene Fraser whose body has never been found. He was jailed for life and ordered to spend at least 17 years behind bars in May last year for the crime.

Fraser has always denied involvement in the disappearance of the mother-of-two who was 33 when she vanished from her home in New Elgin, Moray on April 28 1998. His legal team argued that he was the victim of a miscarriage of justice after a witness at the trial let slip that Fraser had spent time in custody. But judges at the Court of Criminal Appeal in Edinburgh concluded that the trial was fair and refused the appeal.

At last month's appeal hearing, defence QC John Scott said the remark made by Sandra Stewart in the witness box last year was prejudicial because it referred to a previous conviction Fraser had for assaulting his wife to the danger of her life weeks before she disappeared. The comment may have led jurors, who are not told of any previous convictions of an accused person, to do their own research on the case. The "Google factor" increased the risk of jurors potentially finding prejudicial material on the internet, he said.

Lord Justice Clerk Lord Carloway, who heard the appeal with Lady Paton and Lord Drummond Young, said they were not persuaded that the remark would have prompted jurors in Edinburgh to remember anything about Fraser's previous conviction. "Such recollection would presuppose a remarkable, and it might be reasonably surmised, implausible power of memory retention in the minds of persons with no obvious direct connection to the case, the locality or the criminal justice system," the judges said.

Jurors were, throughout the trial, given "clear and repeated" directions not to search the internet for information about Fraser. The appeal judges did not consider that Ms Stewart's comment increased the risk of jurors researching the case online. Directions given by the trial judge Lord Bracadale immediately after her evidence were "sufficient to meet any potential prejudice to the appellant as a result of the answers", they said. The court does not con-

Disclosure and Barring Service.

Mr Grayling announced on Sunday that police guidance will be amended in England and Wales so simple cautions will no longer be available for indictable-only offences - the most serious offences that cannot be tried at magistrates' court, only crown court. Simple cautions will also be scrapped for other offences, including possession of any offensive weapon, supplying or procuring Class A drugs, child prostitution and pornography and possession or supply of indecent photographs of children.

Currently, simple cautions can be signed off by officers at sergeant rank, although the Crown Prosecution Service is consulted when cautions are given for indictable-only offences. Only in the most exceptional circumstances can simple cautions be given for serious offences - and they have to be signed off by senior police officers not below the rank of superintendent. Mr Grayling's announcement follows a review announced in April.

Speaking ahead of the Conservative Party conference, he said: "Last year nearly 500 offenders who admitted committing some of the most serious crimes escaped with just a slap on the wrist. Quite simply this is unacceptable and unfair on victims. That is why I am scrapping simple cautions for all of the most serious offences and a range of other offences that devastate lives and tear apart communities. Alongside this, the home secretary and I are launching a review into the use of all out-of-court disposals - their use can be inconsistent, confusing and something the public, and victims, have little confidence in."

Out-of-court disposals include cautions and a range of penalty notices, such as cannabis warnings, conditional cautions and penalty notices for disorder (PND). The Association of Chief Police Officers (Acpo) was one of the partners that worked with the Ministry of Justice (MoJ) on the review. Simple cautions can be an appropriate way for the police to deal with low-level offending. However they are not suitable for criminals who commit serious offences like rape or robbery which can ruin victims' lives." Damian Green Policing and criminal justice minister.

Acpo's lead on out-of-court disposals, Lynne Owens said: "Today's announcement has reinforced both the importance of discretion and the responsibility for oversight when simple cautions are being used in indictable only offences. We also fully support the conclusion that the most serious cases should always be heard in court. It should be noted that the use of simple cautions for indictable-only offences represent a fraction of 1% of the total issued. Therefore the police service would take the view that these are only used in exceptional circumstances currently."

Policing and Criminal Justice Minister Damian Green said it was important for the use of simple cautions for serious offences to be clamped down on for the public to have confidence in the criminal justice system. "Simple cautions can be an appropriate way for the police to deal with low-level offending. However they are not suitable for criminals who commit serious offences like rape or robbery which can ruin victims' lives," he said.

The chief executive of the charity Victim Support, Javed Khan, said that for victims it was important the punishment fitted the crime and "for that response to be sufficient to make sure the offender doesn't commit offences again". He added: "Although it is ultimately up to the police to decide on when to give a caution, victims must have decisions clearly explained to them. Without these they may lose confidence in the police and other criminal justice agencies. The police need to be clear on when a caution is appropriate - for example, it is most unlikely to be right for most violent and sexual offences."

When the review was announced in April, the chairman of the Magistrates' Association, John Fassenfelt, said his group had been appealing to the government for about four years to

The State's case is riddled with inconsistencies, obfuscations, and missteps. A bloody print at the murder scene does not match Albert, Herman, or anyone charged with the crime and was never compared with the limited number of other prisoners who had access to the dormitory on the day of the murder. Potentially exculpatory DNA evidence has been "lost" by prison officials—including fingernail scrapings from the victim and barely visible "specks" of blood on clothing alleged to have been worn by Albert. Both Albert and Herman had multiple alibi witnesses with nothing to gain who testified they were far away from the scene when the murder occurred.

In contrast, several State witnesses lied under oath about rewards for their testimony. The prosecution's star witness Hezekiah Brown told the jury: "Nobody promised me nothing." But new evidence shows Hezekiah, a convicted serial rapist serving life, agreed to testify only in exchange for a pardon, a weekly carton of cigarettes, TV, birthday cakes, and other luxuries. "Hezekiah was one you could put words in his mouth," the Warden reminisced chillingly in an interview about the case years later. Even the widow of the victim after reviewing the evidence believes Herman and Albert's trials were unfair, has grave doubts about their guilt, and is calling upon officials to find the real killer.

Herman's conviction was finally overturned in October of 2013 by a Federal Judge. Although his trial was riddled with evidence of prosecutorial misconduct and other constitutional violations, it was the systematic exclusion of women from his jury in violation of the 14th Amendment that freed him. Unfortunately he was released in the late stages of advanced liver cancer and will likely experience only days of freedom. Sadly for Herman, justice delayed is justice denied.

Albert's conviction has now been overturned three times, most recently in February of 2013 due to a finding of racial discrimination in the selection of his grand jury foreperson. The first two times judges cited racial discrimination, prosecutorial misconduct, inadequate defense, and suppression of exculpatory evidence. He now awaits a ruling from the 5th Circuit Court of Appeals upholding the Judge's order, and setting him free. In the meantime, although no longer convicted of a crime, Louisiana prison officials refuse to release Albert from solitary because "there's been no rehabilitation" from "practicing Black Pantherism."4 If they have their way, Albert will die in prison, behind solitary bars. Let us hope the courts disagree.

Over a decade ago Herman, Albert and Robert filed a civil lawsuit challenging the inhumane and increasingly pervasive practice of long-term solitary confinement. Magistrate Judge Dalby describes their almost four decades of solitary as "durations so far beyond the pale" she could not find "anything even remotely comparable in the annals of American jurisprudence." The case, scheduled for a two-week trial beginning on June 2nd, 2014, will detail unconstitutionally cruel and unusual treatment and systematic due process violations at the hands of Louisiana officials. We believe that only by openly examining the failures and inequities of the criminal justice system in America can we restore integrity to that system. We are angry that Wallace was only allowed a couple days outside prison before his death, and we condemn the sadism of those in power who did everything they could to destroy his body by keeping him caged.

We must not wait - We can make a difference. As the Angolan 3 did years before, now is the time to challenge injustice and demand that the innocent and wrongfully incarcerated be freed. The state is terrified of the creativity, compassion, knowledge, and drive for freedom of those it imprisons--especially those that have the capacity to organize and develop the energies of others. In continuing to fight against the violence of solitary confinement, in honoring the legacies—past and present—of resistance inside, we are emboldened and encouraged by the ever-growing spirit of life personified in people like Herman Wallace.

Long Live Herman Wallace! - Free Albert Woodfox and All Political Prisoners!

Inquest Into The Death Of Sarah Higgins At HMP Bronzefield Opens

Sarah Higgins was 30 years old and had three children aged 5, 6 and 11, when she died at HMP Bronzefield on 8 May 2010. This was the first of two women's deaths in this institution within just 10 months of each other. Sarah was remanded into custody and sent to HMP Bronzefield by Brighton Magistrates Court on 7 May 2010. She had a history of substance misuse. Prior to going to HMP Bronzefield Sarah had been in the custody of Sussex police where she was under constant observation due to concerns that she may have secreted drugs. Following her remand by the magistrates Sarah was escorted to HMP Bronzefield by SERCO, a private escort company. SERCO were aware of the concern that she may have secreted drugs but, unlike the police, did not keep Sarah under constant observation.

On arrival at HMP Bronzefield Sarah was seen by medical staff, including a nurse and a doctor. She was assessed as being a substance misuser and was put on a detoxification programme that included several different prescribed drugs intended to manage her illicit drug dependence. She also went through the usual searching procedures; no illicit drugs were found. Later that evening Sarah vomited and was clearly unwell but she was not referred to medical staff. Shortly after being sick, Sarah was given her prescribed dosage of methadone (part of her detoxification medication).

In the early hours of the following morning, on 8 May 2010, a member of prison staff found Sarah unresponsive and lying on the floor of her cell. After some initial delay, an ambulance was called and prison staff attempted to resuscitate her. These attempts were sadly unsuccessful and she was pronounced dead. A small plastic container was found on Sarah after she had died that contained various drugs. It would appear that Sarah's death was due to the toxic effect of drugs she had been given and/or taken.

Sarah's family are concerned that Sarah was not given appropriate or adequate medical care at HMP Bronzefield, the privately run prison where healthcare provision is the responsibility of Sodexo. In addition, Sodexo sub-contract the provision of General Practitioners to a private company called Cimarron UK Ltd. The family is concerned that GPs working in a prison setting do not receive appropriate training.

Sarah's family hope the inquest will address the following issues:

· Whether the prescribed medication given to Sarah was the sole cause or a contributing factor in her death; · The extent to which, if at all, illicit drugs in addition to the prescribed medication contributed to her death; · The treatment and management of Sarah's drug dependency whilst in the custody of Sussex police; · The passing of information concerning risk from Sussex police via SERCO to HMP Bronzefield; · SERCO's policy for accepting individuals from the police where there is a known risk of secreted drugs; · The reception of Sarah at HMP Bronzefield and in particular the failure to acknowledge or respond to the risk recorded in her Prisoner Escort Record that she may have secreted drugs on her; · Sarah's treatment at HMP Bronzefield in relation to the management of her drug dependency; · The prescription decisions made by the doctor upon Sarah's arrival at HMP Bronzefield; · The decision to dispense Sarah methadone in close proximity to the time that she was unwell; · The emergency response by prison staff on 8 May 2010; · The quality of record keeping by reception staff including by medical staff; · The prescription regime and the policies in place at HMP Bronzefield in relation to drug dependency management; · The policies and procedures in place at HMP Bronzefield in respect of the provision of healthcare.

Sarah's family is represented by INQUEST Lawyers Group members Megan Phillips and Jasmine Chadha of Bhatt Murphy Solicitors and Alison Gerry of Doughty Street Chambers.

Injunctions to Prevent Nuisance and Annoyance *FRFI, 01/10/13*

Injunctions to prevent nuisance and annoyance (IPNAs) are set to replace a number of civil orders and injunctions, namely the Anti-Social Behaviour Order (ASBO), the Anti-Social Behaviour Injunction, the Individual Support Order and the Intervention Order.

The terms set out for IPNAs under the Anti-social Behaviour, Crime and Policing Bill presented to Parliament earlier this year extend and broaden the powers already available under anti-social behaviour laws, introducing a broader definition of Anti-Social Behaviour; a lower standard of proof; increased sanctions; and increased duration of penalties.

While 'anti-social behaviour' is currently a criminal offence, IPNAs will be used as a civil penalty. This enables a lowering of the standard of proof for the triggering of an offence from the criminal standard 'beyond reasonable doubt' to the civil standard 'balance of probabilities'. Liberty, the civil liberties organisation, has pointed out that 'Clearly unhappy with [the current] test, the government is now seeking to lower the burden of proof to allow an injunction to be imposed where there is relatively little evidence of past or threatened anti-social behaviour.' IPNAs also allow hearsay to be admitted as evidence.

The lower trigger threshold for IPNAs would mean that even if there were no actual 'nuisance or annoyance' someone could be accused of 'conduct capable of causing nuisance or annoyance to any person'. Imposition of the injunction would no longer need to be 'necessary', merely 'just and convenient', meaning that all that is required of those that can apply for the imposition of IPNAs (a chief constable, local authority, provider of social housing, the Environment Agency, the Special Health Authority and 'other bodies') is that they claim the target of the injunction to be 'capable of causing' a nuisance.

The duration of these injunctions can be unlimited, and a breach of an IPNA could result in two years' imprisonment or an unlimited fine. While an IPNA itself is not a criminal penalty, the bill gives courts the power to use criminal type powers to punish breaches of them as 'criminal contempt of court'. In the parliamentary publication on the draft bill, it was admitted that unlimited duration would increase the likelihood of breaches of IPNA conditions.

Undoubtedly, the current draft bill will undergo amendments, some of which will probably reduce these sweeping powers; however, whatever its final form, the core purpose of IPNAs is to broaden the powers of the British state. In the context of a major capitalist crisis, and austerity measure that face the working-class, the state is refining its tools of repression and social control.

Chris Grayling Scraps Simple Cautions For Serious Offences *BBC News, 29/09/13*

Chris Grayling said he was scrapping the use of simple cautions in England and Wales for crimes such as rape, manslaughter and robbery. Last year, 493 cautions were issued for crimes that would have been heard at crown court if they had gone to trial. The Association of Chief Police Officers said cautions for such crimes were used in exceptional circumstances. However, Mr Grayling said that the fact some of the most serious crimes resulted in "just a slap of the wrist" was "unacceptable and unfair". Simple cautions, issued at the discretion of police, are an immediate way to deal with people who commit an offence and admit guilt. They were designed to be used for low-level offending. They do not result in any punishment or rehabilitation and offenders do not have to go to court. However, it is added to an offender's criminal record and can be used for reference in any future criminal proceedings. The other type of caution is a conditional caution, which has conditions attached to it that an offender must comply with or face prosecution for the original offence. All cautions will be brought to a prospective employer's attention if an individual's criminal record is checked by the