

nonviolent offenders released up to 18 days early. 2008: Road Safety Act (2006) • New offences: Causing death by careless driving or while uninsured. Criminal Justice & Immigration Act (2008) • Changes to rules for IPPs reduce the number on short tariffs • Most prisoners (incl. EPPs) released at 50% point, on licence to 100% • Fixed-term recalls for certain prisoners. 2008: Tackling Knives Action Plan • Expectation of prosecution and tougher sentencing for possession of knives and offensive weapons •

Tougher sentencing for possession of knives and offensive weapons. 2009: Coroners and Justice Act, 2009 Introduces duty on sentencers to follow guidelines. May have resulted in a narrowing of sentencing for some offences. 2010: Breaking the Cycle, Green Paper Government announces reforms of sentencing including plans to reform IPPs. May account for start of reduction in use of IPP sentences and increase in longer determinate sentences. 2010: Knife & Weapon Murders New starting point of 25 years (increase from 15 years) minimum term for life sentence for murder committed with knife or other weapon taken to the scene. 2012: Drugs Guideline New guideline includes greater account of role of offender. May lead to reduction in sentence length for "drug mules". 2012: Burglary Guideline New guidelines reflects court of appeal judgment giving greater to seriousness of home owner being present and impact on victim. Results in increase in sentence for some categories of domestic burglary. 2012: Legal Aid Sentencing & Punishment of Offenders Act 2012 (implemented Dec 2012) IPPs are to be abolished and replaced with new Extended Determinate Sentences (EDS). More recallees will be eligible for fixed term recalls, decreasing the time they spend in prison. More offenders to get mandatory life sentences.

Period covered: The prison population changes described in this bulletin generally relate to 30 June 1993 compared to 30 June 2012. The charts generally show end-month figures for the period January 1993 to September 2012, however some of the data for 1993 and 1994 is only available for the 30 June. Additionally, between July 2009 and February 2010, some monthly data was not available due to a change in IT systems. In both cases missing figures have been estimated in order to present the full trend on the charts. Some charts relating to prison flows or populations use annual averages and therefore go up to 2011. The sentencing data relates to the years 1993-2011 (the latest published annual figures). The receptions data shown on slides 18 and 19 have been smoothed using a 12 month retrospective moving average, and hence there are no data at the start of the charts.

Data sources and quality The figures in this publication have been drawn from administrative IT systems which, as with any large scale recording system, are subject to possible errors with data entry and processing. Unless otherwise stated, numbers in the text have been rounded for ease of reading. *Source Ministry of Justice Statistical Information*

**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 Cullinane, 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, 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, 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, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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## MOJUK: Newsletter 'Inside Out' No 479 (29/05/2014)

### Families In Bid To Overturn Al-Megrahi Conviction *Iain AD Mann, 7 Kelvin Court, Glasgow*

It is good that a group of British relatives of 25 victims of the Lockerbie disaster, led by Dr Jim Swire, have decided to ask the Scottish Criminal Cases Review Board (SCCRB) to instigate a further appeal against the conviction of Abdelbaset Ali Mohamed al Megrahi for the bombing of Pan Am Flight 103 ("Families in bid to overturn Megrahi conviction", The Herald, May 7). After more than 25 years, it is high time a court was presented with all the relevant evidence.

The immediate response of the Crown Office was disappointing but entirely predictable. "We will vigorously defend the original trial verdict" shows it seems still to be more concerned with protecting the reputation of the Scottish criminal justice system than in making sure that justice was done. It is also disappointing that the Justice Minister and Scottish Government continue to take the same line. It is now clear that there are many justifiable doubts about the safety of the original verdict of the Camp Zeist trial. Surely it is essential that all the relevant evidence is available for consideration and challenge in a court of law?

In its comprehensive report some years ago the SCCRIB identified no fewer than six possible reasons why there could have been a miscarriage of justice in the original verdict. The trial judges were not aware that some vital evidence known to the prosecution was withheld from Megrahi's defence team, or that the British and American Secret Services had refused to release important documents. They did not know that the CIA had promised the principal witness \$2m and a new life in Australia if he identified Megrahi as a casual visitor to his Malta shop several years earlier, and that he was shown photographs of Megrahi before identifying him in court.

The judges were not told that the tiny piece of electronic detonator claimed to be part of the explosive device was found by an American secret service agent in a field near Lockerbie a full six months after the area had already been exhaustively searched, and that there are some serious doubts about its authenticity. And they were not told that on the night before Pan Am 103 took off on its tragic flight, there had been an unexplained break-in at the Heathrow onward baggage terminal which for some reason was not made public at the time.

While each of these pieces of information might not seem very significant in itself, together they would surely have been enough to establish at least a reasonable doubt in the minds of the three judges. The sooner all this evidence is formally presented in an appeal court, the sooner the grieving families of those who lost their lives in this appalling act of mass murder can finally know the truth about who was or was not responsible.

### Joss Stone Murder Plot Pair Get Sentences Cut

Two men convicted of plotting to rob and kill international pop star Joss Stone have won challenges against the length of their sentences. Junior Bradshaw, 33, had his 18-year sentence cut to 10 years by the Court of Appeal. Kevin Liverpool, 36, who was originally given a life sentence with a minimum term of 10 years and eight months, had his minimum reduced to six-and-a-half years. They were found guilty of conspiracy to murder and conspiracy to rob following a three-week trial at Exeter Crown Court last year. They drove from Manchester to Miss Stone's home in mid-Devon with an arsenal of weapons to rob and kill her.

### **Craig Boath May have Suffered Miscarriage of Justice**

*Herald Scotland, 14/05/14*

The Scottish Criminal Cases Review Commission (SCCRC) said Craig Boath may have suffered a miscarriage of justice. Eight men were convicted of a string of child porn charges after a high-profile trial in Edinburgh five years ago. They were said at the time to have been members of Scotland's biggest paedophile ring. One of them, former insurance worker Boath, from Dundee, was jailed for more than nine years in June 2009 after a jury found him guilty of conspiring with others to sexually abuse a child. Boath, now aged 29, was also convicted of five child porn charges, including possessing and distributing indecent photographs of children.

The SCCRC today confirmed it has decided to refer Boath's case back to High Court judges. While a statement of their reasons for doing so has been sent to the court and prosecutors, it has not been made public. Nevertheless, the Commission said its decision followed a 2011 appeal ruling in the case of another co-accused, Neil Strachan, now 46. A statement issued by the SCCRC said: "The Commission has decided to refer the case to the High Court because it considers that, in light of the decision in *Strachan v HMA*, the libel in one of the charges against the applicant should have been restricted to one between him and one other of his co-accused. In these circumstances the jury returned a verdict in respect of the applicant in respect of the conspiracy charge which was not as restricted as the evidence against him suggested, and in these circumstances, this may have led to a miscarriage of justice."

### **Steven James Connal**

The Scottish Criminal Cases Review Commission ('the Commission') has referred the case of Steven James Connal to the High Court of Justiciary. In accordance with the Commission's statutory obligations, a statement of reasons for its decision has been sent to the High Court, to the applicant and his solicitors, to the Lord Advocate and Crown Office. The Commission has no power under its founding statute to make copies of its statements of reasons available to the public. On 14 September 2011, at Stirling sheriff court, Mr Connal was made subject to a Sexual Offences Prevention Order, to run for a period of 10 years, which included a number of restrictions. The Commission has decided to refer the case to the High Court because it believes that there may have been a miscarriage of justice in respect of the sentence imposed and in particular in respect of the level of restriction imposed.

### **Jailed Ex-Marine Loses Appeal Against Afghan Murder Conviction**

A former Royal Marine jailed for life for murdering an insurgent in Afghanistan has lost an appeal against his conviction. Sgt Alexander Blackman, of Taunton, was found guilty of murder at a court martial in November and told he would spend at least 10 years in jail. The Court Martial Appeal Court in London decided to reduce the minimum term he must serve to eight years. Blackman must serve the minimum term before he can be considered for parole. Reducing the sentence, judges Lord Chief Justice Lord Thomas, Sir Brian Leveson and Lady Justice Hallett said the court martial had not taken the former marine's combat stress sufficiently into account. Neither Blackman nor his family were in court as the judgement was handed down. Lord Thomas said the court martial ought to have accorded greater weight as a mitigating factor to the combat stress from which Blackman was suffering. He said the stress had arisen from the nature of the insurgency in Afghanistan, the way his tour of duty was arranged and other matters personally affecting him. The judge also said Blackman was unlikely to commit a similar offence again.

became more stringent, as seen by: – custody rates increasing for nine of the ten offence groups and for more serious offences in particular – custody becoming a more likely prospect for those failing to comply with licence conditions. 2. The mix of offence groups coming before the courts has become more serious, with larger volumes of violence and drug offences and to a lesser extent sexual offences.

Volumes entering prison: More offenders are entering prison having received an immediate custodial sentence. The recall population grew as more offenders could be more easily recalled and spend longer on licence thereby increasing the potential for recall. The breach population grew steadily until 2008 after which it stabilised.

Length of stay: The overall average custodial sentence length has increased. The proportion of offenders whose sentences were 4 years or more (including indeterminate sentences), grew to 54% of the sentenced prison population in 2012, compared to 45% in 1993. Recalled offenders staying longer (until introduction of fixed term recalls in 2008) Parole rate decreased from 2006/7.

Cases coming before the courts are becoming more serious, with three offence groups, violence against the person (VATP), drug offences and sexual offences, having the largest impact on increasing the prison population. Two thirds of the sentenced prison population rise has been caused by 3 offence groups: violence against the person (VATP), drug offences and sexual offences. Volumes sentenced to custody for each of these 3 offence groups increased over the period, with large rises of 96% for VATP, 166% for drug offences and 73% sexual offences. The overall effect of the changes in characteristics relating to violence against the person, drug offences and sexual offences has impacted both receptions and length of stay. Receptions: • A more serious mix of offences means that more offenders coming before the courts are likely to require custodial sentences, as reflected by the increase in custody rates. Length of stay • More serious offences will also warrant longer sentences, as is reflected in the increase in average custodial sentence length (ACSL) and in the rapid increase in volume of offenders receiving life and indeterminate sentences for VATP and sexual offences • Prisoners who have committed more serious offences are less likely to be eligible to be released early on HDC, ECL (while in place) or on licence.

Legislative and policy changes have contributed to more stringent outcomes, making sentence lengths longer for certain offences and increasing the likelihood of a breach of non-custodial sentence or licence conditions resulting in prison. Some recent legislative and policy changes have contributed to more stringent outcomes, while others have been expected to reduce the prison population.

2005: Criminal Justice Act (2003) • Licence period lengthened, increasing likelihood of recalls • Suspended sentences were made much more available, increasing breach population • Breach sentences must now be more onerous than that breached. Introduced release at the halfway point for offenders serving determinate sentences of 4 years or more • Minimum mandatory 5-year sentence for possession of illegal firearms offences • Introduction of indeterminate and extended sentences for public protection (IPP and EPP) – which have since been popular with sentencers • Parole Board must now review all recall cases – the re-release rate of recalled offenders has been low. 2007: Simple, Speedy, Summary Justice • Reductions in pretrial reviews and increased use of PNDs, frees up court time for other cases • More early guilty pleas lead to reduced sentence lengths. 2007: Bail Accommodation Support Scheme • Support for some offenders held on remand enabling them to be bailed • Support for some offenders enabling them to be released on HDC. 2007: End of Custody Licence • Certain

the period. However from early 2012 the remand population began to fall, in part reflecting the falling volumes through the courts. The non-criminal population, primarily composed of those being held under the Immigration Act (including those in NOMS operated Immigration Removal Centres), has been generally increasing since 2000 but remains relatively small. The fine defaulter population decreased rapidly to very low levels which have been stable since 2001. The recall population grew rapidly from 1993 to 2008, increasing by over 55 times, but has since stabilised following the introduction of Fixed Term Recall in 2008. The non-criminal\* population has increased by 105% since 1993, but remained relatively small, resulting in an increase of only 600 prison places.

The fine defaulter population decreased rapidly to very low levels which have been stable since 2001. Between 1993 and 2011 the remand population was relatively stable at around 12- 13,000. However from early 2012 the remand population began to fall. •While the remand population has fluctuated, reflecting the behaviour of remand receptions, the population has remained at around 12-13,000 for most of the period. This is also reflected in the average time on remand being relatively stable throughout the period – around 10 weeks in 2011. •The public disorder of August 2011 had an immediate impact adding around 900 prisoners to the remand population, with this impact falling over the following months as offenders were processed through the courts and sentenced. •The remand population began to fall in early 2012, consistent with court flows (which fell 4% in the year to June 2012).

What has caused the changes? - Two factors have caused the increase in the prison population of England and Wales since 1993 – tougher sentencing and enforcement outcomes, and a more serious mix of offence groups coming before the courts. Legislative and policy changes have contributed to more stringent outcomes, making sentence lengths longer for certain offences and increasing the likelihood of imprisonment for breach of a non-custodial sentence or failure to comply with licence conditions. This includes: Mandatory minimum sentences for a number of offences and introduction of new sentences for public protection (IPPs and EPPs) Changes to requirements for failure to comply with licence conditions or breach of non-custodial sentences, making custody a more likely outcome, and lengthening time spent on recall. Cases coming before the courts are becoming more serious, with three offence groups – violence against the person, drug offences and sexual offences – having the largest impact on increasing the prison population The remainder of the population increase reflects larger volumes of more serious offences coming before the courts

Moreover, not only are larger volumes of violence against the person, drug offences and sexual offences being sentenced, custody rates and average custodial sentence length (ACSL) have also increased. Since 1993 the sentenced population for sexual offences has risen by over 7,000. • Between 1993 and 2004 the numbers sentenced at court were fairly flat, so the increase was due to rising average sentence lengths. • Following the introduction of the Sexual Offences Act 2003, the numbers sentenced rose by 31% from 2004 to 2011. Over the same period the average custodial sentence length rose by over 13 months (particularly driven by increases in sentence lengths for the most serious sexual offences). • Higher volumes being sentenced, and longer average sentence lengths have combined to drive the increase in the prison population for sexual offences.

Two factors have caused the increase in the prison population of England and Wales since 1993 – tougher sentencing and enforcement outcomes and a more serious mix of offence groups coming before the courts. 1. Sentencing and enforcement outcomes

The murder on 15 September 2011 took place after a patrol base in Helmand province came under fire from two insurgents. One of the attackers was seriously injured by gunfire from an Apache helicopter sent to provide air support, and the marines found him in a field. Footage from another marine's helmet-mounted camera showed Blackman shooting the Afghan prisoner in the chest at close range with a 9mm pistol. Blackman told him: "There you are. Shuffle off this mortal coil, you c\*\*\*. It's nothing you wouldn't do to us." He then told his comrades: "Obviously this doesn't go anywhere, fellas. I just broke the Geneva Convention."

The court martial board in Bulford, Wiltshire, found Blackman guilty of murdering the insurgent. Two other marines were acquitted. It was the first time a member of the British armed forces had faced a murder charge in relation to the conflict in Afghanistan, which began in 2001. Blackman was also "dismissed with disgrace" from the Royal Marines. He had served with distinction for 15 years, including tours of Iraq, Afghanistan and Northern Ireland. Blackman, 39, had denied murder, claiming he believed the victim was already dead and that he was taking his anger out on the corpse. During the appeal, Blackman's lawyer, Anthony Berry QC, described the murder conviction as "inherently unsafe" because there was a "possibility that he was convicted by a simple majority of a seven-man board". He said there remained "doubt as to whether the prosecution in fact satisfied the criminal standard of proof". A Ministry of Defence spokesman said of the ruling: "We respect the authority and decision of the appeal court, and it would be inappropriate for us to comment on the sentence."

#### **Jail Fraudsters For Longer, Judges Told**

*Owen Bowcott, Independent, 23/05/14*

Guidelines from Sentencing Council instruct judiciary to make harm to victims a central factor in deciding on custody: Longer prison sentences for frauds that target the vulnerable and fresh sanctions against money-laundering are recommended in new judges' guidelines issued by the Sentencing Council. The impact of fraud on victims should be a central feature when judges come to consider the level of punishment imposed on convicted fraudsters, the guidance explains. Previous guidelines for many fraud offences referred to the harm done to victims merely as an aggravating factor. Some of the recommendations significantly raise the starting point in terms of sentence length. The previous range for offences involving more than £500,000, for example, was four to seven years' custody with a starting point of five years. The range in the new guideline is five to eight years with a starting point of seven.

"[Fraud] offences are committed by offenders for financial gain but can mean much more than financial loss to the victim," the Sentencing Council said. "Even a relatively small sum lost can leave some victims badly affected." Judges are urged to consider the effect on vulnerable victims such as the elderly. For the first time the guidance includes recommendations for those convicted of money laundering. The maximum sentence allowed by parliament is 14 years. The guidelines say the starting point for judges considering those convicted of handling more than £10m should be between four and 10 years in jail.

In 2012, 17,926 people were sentenced for a variety of fraud involving deception of individuals, businesses, public bodies and charities. Frauds against individuals cost victims a total of £9.1bn during the financial year 2012-13. They included Ponzi schemes, gangs targeting people using cash machines, cowboy builders who rip off vulnerable older people, identity fraud and internet offences such as phishing, fake online ticket sites and bogus dating and social media sites. Fraud cost businesses £21.2bn in the same period, including employees claiming bogus expenses, suppliers making fraudulent payment claims, cash-for-crash scams and

other insurance fraud, and people falsifying mortgage applications. Frauds targeting public money amounted to £20.6bn in 2012-13, mainly comprising tax fraud, such as income tax evasion and VAT evasion, as well as council tax and benefit frauds.

The guidelines have been supported by the Citizens Advice Bureau. The organisation's chief executive, Gillian Guy, said: "As many as four million people are on the receiving end of a scam each year, with many tricked out of thousands of pounds of the money they need to get by. People often feel powerless to take on slippery con artists. People can bring scammers to justice and stop others being caught out by reporting them to Action Fraud."

Sentencing guidelines must be followed unless a judge or magistrate feels it is "not in the interests of justice to do so". If a judge or magistrate believes that a guideline prevents the correct sentence from being imposed in an exceptional case, they may sentence outside of the guideline. The chairman of the Sentencing Council, Lord Justice Treacy, said: "Fraudsters are in it to make money, but for their victims it can mean much more than losing money. Our research with victims showed the great impact it can have on them, so the guideline puts this impact at the centre of considerations of what sentence the offender should get."

#### **Cycle Of Revenge Killings that Went on For Three Years** *Paul Peachey, Independent,*

We may never know why teenage gang member Mohammed Hussain was in rival territory after dark on 1 April last year – even with armed back-up waiting close by in the car. It could have been deliberate provocation by Mr Hussain to saunter on the turf of north London rivals "Dem Africans" (DA) on the eve of a trial of some of his friends accused of the murder of 15-year-old DA member Negus McLean. Alternatively, he may have been tricked into coming to the area as part of a planned ambush. Whatever the reason, the result for the 19-year-old Get Money Gang (GMG) member was sudden and brutal. As he wandered back to his car, he was intercepted by a young gunman. After two blasts from a shotgun, Mr Hussain was left dead in an alleyway. His murder – for which Natnael Tesfay, 21, was convicted today – was part of a long-running feud between Mr Hussain's GMG and DA, their postcode rivals. "This case is a terrifying example of how gangs ruin lives," said Detective Chief Inspector John Sandlin of Scotland Yard. The Independent can reveal that the shooting had the unintended consequence of exacerbating a cycle of violence that has left at least three people dead over two-and-a-half years.

Mr Hussain's father, Abdi, has now lost two sons to Britain's vicious gang wars. He learnt during the first of two trials of his son's alleged killers that his estranged second son had been arrested for another murder. Five months after Mohammed was gunned down in April 2013, Hussain Hussain fatally stabbed a young fitness instructor in the back. That killing was in Leicester, where Hussain – a known London gang member – moved after being released from prison. The murder of the fitness coach, Antoin Akpom, followed a confrontation when Hussain and a friend crossed into the victim's territory during a long-running rivalry between gangs in Leicester. Hussain had claimed self-defence, but was convicted of murder and sentenced to life in jail. He will serve a minimum of 15 years. "I am satisfied this was yet more offending arising out of postcode rivalry, in which you were steeped," said Judge John Griffith-Williams last month at Stafford Crown Court. "While you were not a member of any Leicester postcode gang, you were more than happy to join in the violence." Acquaintances of Mr Akpom were accused of seeking their own revenge on the night. But the mob allegedly got the wrong house, killing Shehnila Taufiq, 47, her sons Jamal, 15, and Bilal, 17, and daughter Zainab, 19, who had nothing to do with the feud and died when

sentenced prisoners are now released automatically at the halfway point of their sentence (rather than by the Parole Board as previously). This, combined with an increase in the use of HDC, contributed to the decrease in proportion of time served in 2010 and 2011. There has been a steady increase in the number of lifers, while the overall indeterminate population increased rapidly after IPPs were introduced in 2005. However, the rate of year-on-year growth in indeterminate sentences has slowed considerably following the changes introduced in the CJIA 2008 which restricted the use of IPPs.

Since 1999, sentenced offenders have been spending longer in prison, which has also contributed to the increase in the prison population. Since 1999 the average time served has increased by 1.4 months • The relatively high figure in 2007 was caused by an increase in the average time served of those discharged from long sentences (4 years +), following the fall in Parole Board releases of long sentenced prisoners in 2006/07 • A number of measures affecting the length of time served in prison were introduced in 2007 and 2008 • The relatively higher figure in 2010 was due to an increase in the number discharged from longer sentences (12 months or more), in line with the general population where from 2009 onwards an increasing proportion were serving longer sentences. This reflects longer determinate sentences handed down by the courts, which increased by 15% between 2000 and 2004 and by 13% between 2007 and 2011. The average custodial sentence length increased from 14.3 months in 2000 to 16.4 months in 2004 • When IPPs were introduced in 2005, which are not included in the calculation of average sentence lengths, average sentences began to fall and reached 15.4 months in 2007 • However, since 2007 average custodial sentence lengths have increased again, due to a rise in the volume of longer sentences been given. This coincides with changes to legislation restricting the use of IPPs in 2008. The average proportion of time served in custody has increased slightly for those with determinate sentences. There has also been a steady increase in the number of lifers, while the overall indeterminate population increased rapidly after IPPs were introduced in 2005. The proportion of the sentenced prison population serving indeterminate or life sentences increased from 9% in 1993 to 19% in 2012. • Taking determinate sentences of 4 years or more together with indeterminate sentences, the population serving these long sentences increased by 26,600 between 1993 and 2012, representing 66% of the total population increase over the period. • Growth slowed considerably following the changes introduced in the CJIA 2008 which restricted the use of IPPs. Additionally the number of IPPs being released from prison has started to rise, although numbers are still relatively small (300 released in 2011).

#### **Impact of other elements on the prison population**

The recall population has grown rapidly since 1993, increasing by over 55 times The recall population increased by 5,300 between 1993 and 2012 Growth in the recall population began in 1999, reflecting the change to the law in 1998 which extended executive recall to medium-term sentences (12 months to less than 4 years) Between 2002/03 and 2007/08 the recall rate from parole more than doubled from 13% to 27% Between 2003 and 2008 the average length of time spent in prison on recall increased. However, following the introduction of Fixed Term Recalls in 2008 (under which some offenders are recalled for a fixed 28 day period) average time on recall has fallen and the recall population stabilised. The remand and non-criminal populations have both increased, but the contribution to the overall prison population increase remained relatively small, with increases of 700 and 600 places respectively The remand population is large and has remained relatively stable at around 12-13,000 throughout most of

2004, they increased following the introduction of the Sexual Offences Act 2003. At the same time, between 2004 and 2011 the average custodial sentence length rose by over 13 months. The effect of this was a continued rise in the sentenced population for sexual offences.

What has happened to the prison population since 1993? While the prison population has grown during most years since World War II, between 1993 and 2008 the growth rate increased from an average of 2.5% to 4% per year. Since 2009 the growth rate has slowed to 1.0%. The growth of the numbers in prison having been sentenced to immediate custody has been the single most important contributor to the overall growth, representing 85% of the total

Impact of numbers sentenced to immediate custody on the prison population

From 1993 to 2002, increasing numbers of adult offenders were sentenced to immediate custody for indictable offences, partly due to an increase in total numbers being sentenced. Thereafter, both generally decreased until 2006 when they began to rise again. The volume sentenced to immediate custody annually by the courts rose around 36,000 by 2002, but then fell by 11,000 to 2006 before rising by 13,000 by 2011. The total number of adults (aged 18 and over) sentenced by the courts for indictable offences fluctuated between 255-300,000 annually, peaking in 2010 and 2011 (coinciding with a fall in the number of out of court disposals). There was also an increase in immediate custody rates of over two thirds. Immediate custody rates for indictable offences increased from 16% in 1993 to 28% in 2002. Since 2002, immediate custody rates have stabilised between 26% and 28%. Suspended sentence orders (SSOs) were introduced in 2005; they are custodial sentences, and breach of an SSO is likely to result in custody. The SSO rate\* increased from 2 per cent in 2005 to 11 per cent in 2011. Offenders aged 18+ sentenced for indictable offences; includes any suspended sentences given for offences committed prior to April 2005.

From 1993 to 2002, increasing numbers of offenders were sentenced to immediate custody, partly due to an increase in the total numbers being sentenced. Between 2002 and 2007 both decreased while use of suspended sentences grew rapidly after 2005. From 2008 the numbers sentenced to immediate custody began to grow again. There was also an increase in immediate custody rates of over two thirds from 1993- 2002, they have since stabilised.

Impact of time served on the prison population: Since 1999, sentenced offenders have been spending longer in prison, which has also contributed to the increase in the prison population. There has been an increase of 1.4 months in the average time served in custody since 1999 for offenders serving determinate sentences. This reflects longer determinate sentences handed down by the courts, which increased by 2.1 months between 2000 and 2004, and by 2 months between 2007 and 2011. Between 1993 and 2000, the average custodial sentence length handed down for indictable offences across all courts decreased, but from 2000 to 2004, increased from 14.3 to 16.4 months. Between 2004 and 2007, average sentence lengths decreased, which may have been a result of a switch from longer determinate sentences to IPPs introduced in 2005. The majority of those getting IPPs would previously have received a long determinate sentence, and IPPs are excluded from the calculation of average custodial sentence length. From 2008 average sentence lengths increased again, reaching 17.4 months in 2011. The average proportion of time served in custody for those with determinate sentences increased from around 56-57% in 1999-2005 to around 60-61% in 2006-2009, before falling to 54% in 2011. The falling HDC caseload and lower rate of release on parole from 2005-06 both contributed to the increase in proportion of time served between 2006 and 2009. Changes to legislation introduced in 2008 mean almost all determinate

they were trapped by the flames. Eight men are currently on trial for the family's murder.

Abdi Hussain, a security guard who left the chaos of civil war in Somalia for a new life in Britain, did not go to Stafford in April to see his estranged son convicted. But he has been in court in south-west London for the trial of the man accused of killing his older son, Mohammed. Three others accused of involvement were cleared at a trial last year. At one of their homes, police found a green hooded top printed with "RIP Negus McLean", suggesting a possible motive beyond the long-standing feud between the two gangs. "They were seven years old when they came here and they grew up in this culture," Abdi Hussain said about this sons. "I was on duty when someone called me, telling me my son [Mohammed] has been shot dead. I regret that they came here. The community is dying; the family is breaking up." He added: "They saw me as an old-style father, so they didn't listen to me."

Hussain Hussain had long been connected to London's teenage gangland. He had criminal convictions for affray and violent disorder and was questioned over the fatal stabbing of Negus McLean in April 2011. Negus, who was 15 when he was killed, was the third person to be stabbed in a week amid growing tensions between DA and the Hussain brothers' GMG. He died at the hands of a "hunting posse" of seven boys on BMX bikes who rode out in search of a victim. They chased Negus who came off his bike and was repeatedly stabbed in the chest and legs. "It should have stopped with Negus," said his mother, Ingrid Adams. "It was a beautiful Sunday that Negus went out and never came back. It's so stupid. There are people out there who think that they're bad – but they need to grow up. Mums and dads need to wake up. If you go to a graveside in a cemetery, do you know how many young people are there? They could have cured Aids; they could have done so many things and they are just dead. We have to forgive. What can you do?" Four teenagers – all members of the Get Money Gang – were eventually charged with the stabbing of Negus McLean and stood trial in April last year, despite the murder of Mohammed Hussain on the eve of their trial. They were convicted and given life sentences, with one told he would serve a minimum of 19 years.

Attempts were made by the authorities to contact Hussain Hussain and associates of Negus McLean following Mohammed Hussain's murder, to try to end the cycle of violence. But Hussain Hussain had been unwilling to engage. He told his trial that he had inherited a large amount of cash from his brother on his death and had moved to Leicester three weeks before Mr Akpom was killed. Why he moved there remains unclear. He had contacts in the city through his time at Feltham Young Offenders' Institute. But his father said that police had been involved in the move to get him away from London's gang violence. Scotland Yard said it was "not prepared to discuss arrangements that may or may not have been made for individuals".

It emerged that Hussain Hussain had been walking down the road with another man when they were confronted by Mr Akpom, 20, a passenger in a car that had been driving past. Mr Akpom soon left, but came back armed with a dumb-bell and was followed by a group of other people. Hussain Hussain pulled out his knife – stopping some members of the group in their tracks – and then tussled with Mr Akpom, stabbing him in the back and puncturing a lung. Hussain Hussain fled to London that night by taxi. He packed up a parcel containing several thousand pounds, according to a driver, and tried to take a flight to Amsterdam or Marrakech. However, as a refugee from Somalia, he needed a visa. Instead he took a taxi to Cardiff where he was arrested.

The parents of the murder victims have not met, but they share bewilderment and grief at what happened to their families and how it changed all of their lives. "I never realised it would continue like this," said Mrs Adams. "I don't even know what has gone on, to be honest. If

it was revenge, it would have been straight away, not two years after. I feel sorry for that man. He lost two sons and that's really sad."

Timeline: Warring factions: April 2011 Negus McLean, 15, of Dem Africans, killed by a "hunting posse" from the rival Get Money Gang. - April 2013 Mohammed Hussain of the Get Money Gang is killed by a double shotgun blast. - May 2013 Four members of the Get Money Gang are convicted of murdering Negus McLean and receive life sentences. - September 2013 Antoin Akpom killed in a street fight with Hussain Hussain, Mohammed's brother. On the same night, four members of the Taufiq family – a mother and three teenage children – die in a blaze at their home, wrongly targeted by a group in retaliation for the murder of Akpom, a court hears. - April 2014 Hussain Hussain found guilty of the murder of Akpom and sentenced to life in prison. - May 2014 Natnael Tesfay, 21, found guilty of the murder of Mohammed Hussain.

### **Munir Farooqi Family Allowed to Keep Home as Bid to Seize Property Fails**

The first attempt to seize the home of a convicted terrorist using new laws has failed, after a judge ruled it would be unfair to make his family homeless. The Crown Prosecution Service applied for the forfeiture of a house where extremist Munir Farooqi, 56, attempted to recruit jihadist fighters to kill British soldiers in Afghanistan. They used new powers under Section 23A of the Terrorism Act 2000 to apply for the seizure of Farooqi's £200,000 home in the Longsight area of Manchester.

But in a landmark ruling yesterday at the High Court in Manchester, senior law lord Sir Richard Henriques QC, rejected the application on the grounds it would make Farooqi's "wholly innocent" family homeless. The ruling is a blow as it was intended to send out a strong message to terrorists that properties would be seized if they used them for terrorist activity. Explaining his decision, Sir Richard said: "It should not be cited as a case of the human rights legislation protecting a terrorist's family. It is a case where judicial discretion is afforded to ensure that wholly innocent citizens are not adversely affected by a forfeiture order, depriving them of their home. I am satisfied that if I were to make the order, I would run the risk of these wholly innocent adults and children becoming homeless."

But despite the judgment, Sir Richard ordered that Farooqi must pay half a million pounds within six months to cover the cost of the trial and his defence team. Sir Richard said the new powers that had been granted to seize someone's home, were an "important step in the fight against terrorism." Those who commit terrorist offences in their homes must expect to have their property forfeited. There is a substantial deterrent element in such orders," he said.

Market trader Farooqi is serving four life terms after being convicted of soliciting the murder of British and American soldiers in Afghanistan and disseminating terrorist literature. His 2011 trial heard how undercover police officers had posed as Islamic recruits and had been urged by him to fight in Afghanistan and kill 40 to 50 British and American troops.

After the case, the senior investigating officer Detective Superintendent Julian Richardson of Greater Manchester police, said: "We think it is a fair judgment in the circumstances. This has been a good test of the law. It is clear that Farooqi committed very serious acts but the court ruled that due consideration must be given to interested parties – the family members. There was never any wish to render the family homeless. It is not a test case which has fallen at the first hurdle. The judge ruled that the premises had been used for terrorism but he has considered all the circumstances in the round, which is that there were other innocent members of the family living there." *Martin Evans, Telegraph,*

ing in prison for longer. The annual volume sentenced to immediate custody for indictable offences\*\* increased by around 36,000 between 1993 and 2002. This was due to increases in both the number of cases sentenced by the courts and the proportion of sentences which resulted in custody (the 'custody rate').

From 1999 to 2011, the average time served in prison increased from 8.1 to 9.5 months for those released from determinate sentences\*\*\*. This was due to an increase in the average custodial determinate sentence length handed down by the courts between 2000 and 2005, and a decline in the parole release rate from 2006/07 (which meant that offenders had served longer by the time they were released).

The decline in parole rate, and impact of a growing proportion of longer sentences in the prison population, caused a slight increase in the average proportion of determinate sentence served in custody from around 56-57% in 1999-2005 to around 60-61% in 2006-2009, but has since fallen again to 57% in 2010 and 54% in 2011.

The second largest increase was within the recall population. This reflected a higher recall rate caused by changes to the law making it easier to recall prisoners, and changes introduced in the Criminal Justice Act 2003 which lengthened the licence period for most offenders. Recall prisoners have also stayed in custody for longer because, prior to the introduction of Fixed Term Recalls (FTRs), under which some offenders are recalled for a fixed 28 day period, the Parole Board were required to review all recall cases. Since 2008, use of FTRs has increased and the recall population stabilised.

Other elements of the prison population account for only 2% of the total increase since 1993. The remand and non-criminal populations both increased, with the remand population large and relatively stable at around 12-13,000 for most of the period, and non-criminals doubling but remaining small in total, while the fine defaulter population declined sharply from 1993 to 2001 and thereafter remained at very low levels.

What has caused the changes?: Two factors caused the increase in the prison population of England and Wales from 1993 to 2012: tougher sentencing and enforcement outcomes, and a more serious mix of offence groups coming before the courts.

Legislative and policy changes have made sentence lengths longer for certain offences (e.g. through the introduction of indeterminate sentences for public protection, mandatory minimum sentences and increased maximum sentences) and increased the likelihood of offenders being imprisoned for breach of non-custodial sentences or recalled to custody for failure to comply with licence conditions (as imposed on release from prison).

Three offence groups, violence against the person (VATP), drug offences and sexual offences have had a particular impact on the prison population:

The numbers in prison serving sentences for VATP offences grew steadily throughout the period. This reflected higher volumes being sentenced at court, a larger proportion of them receiving custodial sentences, an increase in the average custodial sentence length (ACSL) and a growing number receiving indeterminate sentences.

The numbers in prison serving sentences for drug offences grew rapidly between 1993 and 2001, reflecting a large increase in volumes sentenced by the courts, a slight increase in the proportion receiving custodial sentences, and an increase in the average custodial sentence length. Since 2001 the sentenced population for drug offences has remained fairly stable.

The numbers in prison serving sentences for sexual offences grew steadily over the period. While numbers sentenced for sexual offences remained fairly stable between 1993 and

of more than 500, the equivalent of a small local prison's capacity, in just a fortnight. England and Wales now has an imprisonment rate of 149 per 100,000 of the population, compared with 100 in France and 77 in Germany. According to the PRT, more than 40 per cent locked up in jails with a capacity of more than 1,000, with the proportion rising to nearly half with the construction of "super-prisons".

#### **Radkov and Sabev v. Bulgaria** (applications nos. 18938/07 and 36069/09)

The case concerned the handcuffing of two life prisoners during a court hearing held on the premises of their prison. The applicants, Plamen Radkov and Miroslav Sabev, are Bulgarian nationals who were born in 1972 and 1966 respectively. In 2006 they brought civil proceedings to complain about the conditions of their detention in Lovech Prison where they were serving sentences of life imprisonment for numerous crimes, including murder, rape and armed robberies. Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy) of the European Convention on Human Rights, they complained that their handcuffing during the ensuing court hearing on 26 January 2007 had been inhuman and degrading and that they had had no effective remedy at their disposal for this complaint. They complained in particular about the presiding judge's failure to give any reasons for refusing to order the removal of their handcuffs, alleging that it had not been necessary to handcuff them as the hearing had taken place in a secure environment – in prison – and in the presence of prison warders. Violation of Article 3 (degrading treatment) Violation of Article 13 Just satisfaction: 1,000 euros (EUR) each to Mr Radkov and Mr Sabev (non-pecuniary damage)

#### **Sons of Prisoners are Likely to Grow up to Become Criminals**

Two thirds of sons of prisoners are likely to grow up to become criminals, according to new research that warns of the dangers susceptible to family members. The children's charity Barnardo's warns that children of prisoners are more likely to be excluded from school and become susceptible to mental health problems. Children with a parent in prison largely remain unknown to the authorities or services that could help them, the charity estimates.

At least 200,000 youngsters have a parent in jail but at no stage in the criminal justice process are offenders asked if they have children. Despite the government's policy of early intervention to break intergenerational cycles of crime and disadvantage, there are no official records of who these children are or where they live. Barnardo's, which is set to publish a report on the issue this week, wants ministers to legislate so that courts ask people remanded or sentenced to prison whether they have children.

Javed Khan, chief executive of Barnardo's, told The Times: "These are highly vulnerable children facing major challenges in their life, yet no one knows what help they might need. We would like to start a conversation with the government about how this group can be helped."

#### **Story of the Prison Population: 1993 – 2012 England and Wales**

Between June 1993 and June 2012 the prison population in England and Wales increased by 41,800 prisoners to over 86,000. Almost all of this increase (98%) took place within two segments of the population - those sentenced to immediate custody\* (85% of the increase) and those recalled to prison for breaking the conditions of their release (13% of the increase).

The sentenced population increased after 1993 because the courts sentenced more offenders to prison each year between 1993 and 2002, and because offenders have been stay-

#### **Access to Criminal Justice Inspectorates** CPS/Constabulary/Prisons/Probation/

During the Cabinet Office's exercise to rationalise government websites, the criminal justice inspectorates successfully made the case that moving our individual websites to GOV.UK – the government's new single domain - would not best reflect and retain the independence our role in society demands. At the same time we did recognise that a joined-up approach to establishing our online identities would be the most cost effective use of public money. We worked together to find the most efficient and appropriate solution – a joint inspectorate platform with individual inspectorate oversight of content and appearance. Below link to the joint platform with further links to the other criminal justice inspectorates [www.justiceinspectorates.gov.uk](http://www.justiceinspectorates.gov.uk). You can still find archived copies of all our websites over the years on The Governments National Archive Site - Jane Parsons for HMCIP.

#### **Home Secretary Theresa May Strips Police Federation of its Public Funding**

The Police Federation will be stripped of its public funding, Theresa May has announced, as she warned the embattled group that it must accept dramatic reforms in the wake of the Plebgate affair. Speaking at the group's annual conference, the Home Secretary warned that the Government would "impose change" on the 95-year-old organisation after listing scandals such as the Stephen Lawrence inquiry and alleged cover-up of failings with the Hillsborough disaster. The Federation came under fire earlier this year after it emerged that the 127,000-member organisation had some £70m in reserves. The Government has previously reduced funding from £320,000 to £190,000 a year. But Mrs May, who was listened to in silence by some 2,000 delegates in Bournemouth, said: "I can announce today that this funding will be stopped altogether from August."

She also announced that the officers would no longer automatically become members of the Federation, and instead would have to opt in. She also said that details of the Federation's accounts would have to be published and the organisation would be subject to the Freedom of Information Act.

Steve Williams, the current chairman of the Federation, which represents officers up to the rank of chief inspector, leaves his post after the conference after becoming the focus of vicious in-fighting after his calls for reform. Today, members decided to adopt the 36 recommendations of an independent review ordered by Mr Williams. After the speech, Mr Williams said: "We have already indicated we are an organisation that is willing to change and it is for us to make the key decisions around reform over the next few days." The speech comes as Scotland Yard announced that a fourth officer had been sacked for her involvement in the Plebgate affair that led to the resignation of Andrew Mitchell. *Paul Peachey, Independent, 22/05/14*

#### **Permission Required to Ensure Public Funding in JR proceedings**

The Civil Legal Aid (Remuneration) (Amendment) (No. 3) Regulations 2014 came into force on 22 April 2014 with the effect that judicial review proceedings commenced on or after that day will not be funded unless: (a) the High Court or Upper Tribunal grants permission; or, (b) permission is neither granted nor refused and the Lord Chancellor considers that it is reasonable to pay remuneration in the circumstances of the case.

The operative provision is the following, inserted into the Civil Legal Aid (Remuneration) Regulations 2013: 5A.— Remuneration for civil legal services: judicial review (1) Where an application for judicial review is issued, the Lord Chancellor must not pay remuneration for civil legal services consisting of making that application unless either the court— (a) gives

permission to bring judicial review proceedings; or (b) neither refuses nor gives permission and the Lord Chancellor considers that it is reasonable to pay remuneration in the circumstances of the case, taking into account, in particular— (i) the reason why the provider did not obtain a costs order or costs agreement in favour of the legally aided person; (ii) the extent to which, and the reason why, the legally aided person obtained the outcome sought in the proceedings; and (iii) the strength of the application for permission at the time it was filed, based on the law and on the facts which the provider knew or ought to have known at that time.

Notwithstanding that judicial review is the essential mechanism by which our unwritten constitution ensures that abuses of power by the executive are prevented and individual rights are protected, the risk of public law litigation is now to be met by claimant lawyers rather than the executive itself. Despite this, the Regulations were made pursuant to negative resolution procedure and consequently took effect without substantive Parliamentary scrutiny.

Given that judicial review is an inherently risky form of litigation, there is likely to be a substantial reduction in the number of providers willing to provide public law assistance in legally aided cases. This, in turn, is likely to have a substantially detrimental effect on access to justice and executive accountability.

#### **Demetre Fraser Death- No Evidence to Indicate Police Involvement?**

IPCC has issued its findings from an investigation into the death of Demetre Fraser in Birmingham in May 2011. Mr Fraser, aged 21, died as the result of a fall from the 11th floor of Moor House, Druid's Heath around the time that two uniformed West Midlands Police officers arrived at the address to arrest him on suspicion of breaching his bail conditions. Having failed to get a response at Mr Fraser's door, the officers exited the building and then came across the body of a man on a grass area below the block of flats. Later identified as Mr Fraser, he was transferred to hospital where he subsequently died of his injuries.

As part of the investigation, a number of witness statements were obtained, police officers interviewed and forensic analysis conducted. The investigation concluded that Mr Fraser's death was a tragic accident and that it was reasonable to conclude that Mr Fraser fell from his balcony while either jumping or climbing from it. No misconduct issues against any officers were found. The IPCC investigation concluded in April 2012 but issuing the findings has awaited an inquest. An inquest jury at Birmingham Coroner's Court in April found that Mr Fraser's death was accidental, after he attempted to exit his flat via the balcony to avoid arrest and he fell to his death.

IPCC Deputy Chair Rachel Cerfontyne said: "My thoughts are with Demetre's friends and family following the inquest into his tragic and untimely death - those who knew him and who assisted with our investigation described a happy and lively person. I know there was a lot of speculation and anger expressed after Mr Fraser died regarding the circumstances of his death and that is in part why the IPCC decided to conduct an independent investigation. Our investigation found no evidence to indicate the officers made any more contact than knocking on the door of his flat on the morning that he died. We did find compelling evidence that the officers could not have entered the flat. It was protected by a locked steel gate and front door, the only set of keys to which were found inside the premises after the police used steel cutters to secure entry later that afternoon.

"Mr Fraser's mother also made a number of complaints that were explored thoroughly as part our investigation and none were upheld. We shared our report and its findings with Mr Fraser's mother some months ago."

#### **Six Police officers Investigated for Gross Misconduct**

The IPCC has served gross misconduct notices on three South Yorkshire Police officers, two Bedfordshire Police officers and a South Wales police officer as part of its ongoing investigations into the handling of allegations against Ian Watkins. The IPCC has three independent investigations ongoing focussed on the response of South Wales Police, Bedfordshire Police and South Yorkshire Police to allegations that Mr Watkins was abusing children.

The three South Yorkshire Police officers, one sergeant and two police constables, have been served with notices advising them that their conduct is subject to investigation. The IPCC is investigating complaints around the handling of three reports made to the force between March and May 2012 which contained allegations against Mr Watkins with potential evidence. The IPCC is also investigating Bedfordshire Police's handling of information from a member of the public who reported an allegation of child abuse against Mr Watkins to the force in October 2012. A sergeant and a constable have been served with notices advising them their conduct is under investigation. The South Wales Police detective constable, who was attached to the Child Protection Unit, is the second officer from the force to be investigated. The IPCC has received a substantial amount of documentation from the three forces which is being analysed by investigators.

IPCC Commissioner Jan Williams said: "We are making good progress with our three independent investigations and as result of our enquiries IPCC investigators have served notices on six further officers as part of the ongoing investigation – three from South Yorkshire Police, two from Bedfordshire Police and a second from South Wales Police. Arrangements are being made to interview the officers in the coming weeks. We have now conducted two interviews with a detective sergeant from South Wales Police about his actions in relation to information about Ian Watkins. We anticipate he will be interviewed again in the near future. We are continuing to gather and analyse information in all three investigations in order to establish what steps were taken by police in response to the allegations made against Ian Watkins, whether he could have been brought to justice sooner and whether his celebrity status had any impact on those investigations."

#### **Austerity Cuts Blamed For Prisons 'Crisis'**

*Nigel Morris, Independent, 28/05/14*

The prison system is in deepening crisis, with soaring numbers of inmates and worrying increases in assaults and disturbances behind bars and the problems will intensify as austerity measures continue to bite, new research warns. In just two weeks the jail population has leapt by 500 in England and Wales and tens of thousands of offenders are held in huge "warehouse" jails, a report by the Prison Reform Trust (PRT) discloses.

Nearly two-thirds of jails are overcrowded, according to the Ministry of Justice's own definition, stoking up tensions among inmates and piling pressure on overstretched prison officers. The bleak assessment came in the PRT's annual analysis of the state of the prison system. Director Juliet Lyon said: "These latest figures reveal a prison service having to cope with unprecedented strain. Ministers must heed the warning signs." The PRT said the pressures were boiling over more frequently into violence. The prison service's "gold command", the group brought in to combat the most serious trouble, was convened every fourth day in 2013-14, a rise of 153 per cent in just two years. A total of 1,575 serious assaults took place in prisons last year, the highest number for a decade and a rise of more than 300 over the previous 12 months. Meanwhile, 23,183 incidents of self-harm were recorded among inmates, a slight increase over the year before. In 2013 there were 215 deaths in custody, the highest number on record. Last Friday, the jail population stood at 84,305, which represented an increase