

### **Ched Evans Submission to CCRC**

Ched Evans, professional footballer, continues his fight to clear his name after his 2012 conviction for rape with the submission of an application to the CCRC to send his case back to the Court of Appeal. He has always maintained his absolute innocence and with the help of his partner Natasha and their families he has campaigned relentlessly for this conviction to be overturned. It is still difficult to comprehend how he was convicted in a case where no individual ever accused him of rape and where a co-defendant who stood trial at the same time and who faced an almost identical prosecution case was acquitted. Many thousands of people have offered support to Ched through his website and have also expressed their growing concerns about this conviction as more of facts have become known.

Barrister David Emanuel of Garden Court Chambers, London, in conjunction with Shaun Draycott, senior partner with Draycott Browne Solicitors, has completed a thorough review of the evidence and all aspects of the way the case proceeded in the Crown Court. In addition further investigations have been conducted by Liberton Investigations, an independent investigations company, into a number of previously unexplored areas of the evidence.

As a result, an application was today 14/07/14 submitted to the Criminal Cases Review Commission raising serious concerns about the safety of this conviction. The application submits that the case should be sent back to the Court of Appeal on the basis that there is a real possibility that the conviction would be quashed.

Ched has served almost two and a half years of a five year sentence for a crime which he has consistently denied and is due for release in October this year. He looks forward to returning to the family life he used to enjoy and to his career as a professional footballer. He will continue to fight to clear his name. He would like to thank the thousands of people who have sent him messages of support.

His legal team: - David Emanuel Garden Court Chambers, is an experienced criminal barrister who has appeared in a number of high profile cases. He is regularly involved in challenging questionable convictions at the Court of Appeal.- Garden Court Chambers, London are one of the top human rights sets of barristers in the country. Their members have argued in the defence of the rights of accused and in furtherance of the rights of individuals against the state in landmark decisions over many years. - Shaun Draycott is a senior partner in Draycott Browne Solicitors who are one of the leading firms of solicitors in Manchester and the North West specialising in criminal defence. - Liberton Investigations are an independent investigations company who specialise in complex, high profile investigations for individuals, corporate clients, and charities. As trained ex-Police detectives they are experts in just about every investigative area including that of sexual offences. Letters of Solidarity/Support to:

Ched Evans: A4677CN, HMP Wymott, Ulnes Walton Lane, Leyland, Preston, PR26 8LW

**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, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan 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, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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### **MOJUK: Newsletter 'Inside Out' No 488 (31/07/2014)**

#### **Gangs Rape Legitimate Revenge Punishment for Male Gang Members!**

London gangs are creating 'sket lists' of teenage girls who are seen as legitimate targets of sexual violence in order to mete out punishments to other male gang members, stoke rivalries between gangs, and spread fear. The Observer has reported that both police and charities have recorded an increase in sexual violence perpetrated by gangs, while those placed on 'sket lists' (a slang word for 'slut') have experienced attacks so violence that girls have been dragged from school buses and sexually assaulted. Sket lists can include sisters, cousins and girlfriends of rival gang members as targets for sexual assault, which is seen as revenge rape. The lists are circulated through BlackBerry Messenger and mean the girls become active targets wherever they are, such as walking home from school.

Clare Hubberstey, interim chief executive of the Safer London Foundation, told the Observer that gangs are using sexual violence in the same way that they use dangerous dogs to parade their masculinity. She said that gang members know the consequences of being caught carrying a weapon, and are using the low rape conviction rate as a low-risk means of spreading fear and control. "Criminals are clever, they know if they are caught carrying weapons they face a lengthy sentence; it's risky carrying a gun.

The use of sexual violence is the same sort of thing as having a dangerous dog; it creates fear, it's non-traceable, and they are also taking advantage of low rape conviction rates even when there are witnesses," she said. Often girls who are placed on sket lists are those who were secretly filmed by a gang engaging in a sexual act, and who is then threatened with the footage appearing on social media if the girl does not agree to further sexual activity. Ms Hubberstey said this method of blackmail is fairly common.

Scotland Yard said that sexual violence against women by gangs is now the top of its agenda. It said it has led initiatives that have seen gun crime fall by 17% and knife crime offences by 11.5%, and that sexual violence by gangs against women is the next priority. Detective Superintendent Tim Champion said of the Metropolitan police's Operation Trident gang crime command that: "The first thing we do is stop people killing each other. The focus now is clearly on women. It's as prevalent as carrying a knife or a gun – raping a girl in a gang." The Safer London Foundation said more than 500 young women were victims of gang-related sexual violence in the past year, while the Metropolitan police said it is currently mapping the problem in order to find "hotspots" of abuse.

*Loulla-Mae Eleftheriou-Smith, Independent*

#### **Solicitors Will Close if Legal Aid Cuts Not Delayed** *Owen Bowcott, The Guardian*

At present, there are about 1,600 duty contracts but the number is due to fall to 525 under the new scheme overseen by a government quango, the Legal Aid Agency (LAA). Firms may form consortia to bid for each duty contract. Hundreds of solicitors' firms will close if the Ministry of Justice does not postpone fee cuts and delay changes to criminal legal aid contracts, the new president of the Law Society has warned. Andrew Caplen, who took charge of the UK's largest professional legal organisation this month, is urging the MoJ to recognise it is already spending far less than anticipated thanks to a sustained fall in crime rates. In a letter sent to

criminal law practitioners across England and Wales on Monday, Caplen calls for the second round of 8.75% fee cuts due next spring to be reassessed and reductions in the number of duty legal aid contracts for solicitors to cover police stations and magistrates courts put on hold.

Caplen, whose law firm is in Hampshire, believes the LAA has not provided sufficient information in time for the bidding process to go ahead on a fair basis. For firms already facing severe economies, he fears that poorly designed contracts, in particular those covering vast rural areas with little crime, could tip them over into bankruptcy. "The risk is that large numbers of law firms will close," Caplen told the Guardian. "Some firms just do crime. Those firms that do not obtain a contract will have to close. Hundreds of firms may have to close and it's very sad for those who have put a lot of effort into them. People care passionately about the law. If our members want to put in bids for these contracts then more time is going to be needed to make it work. The LAA is not yet in a position to open up the tender process."

The next planned round of 8.75% fee cuts for criminal legal aid is due after the 2015 general election. Caplen urged the MoJ to "take stock and wait". The amount being spent [on criminal legal aid] is declining due to the falling crime rates and more people being cautioned," he said. "If less money is being spent on criminal legal aid, what's the point of going ahead with a reform like this and taking a chance [on whether it will succeed]? We are asking the government to delay the 8.75% fee cut." Caplen's letter informs criminal solicitors that the latest accounts from the LAA show a 3% fall in the number of legal aid cases in 2013-14 compared with 2012-13 and that total spending on criminal legal aid was £908.6m as against an expected spend of £941m at the time of the 2013-14 business plan. Caplen, formerly chair of the Law Society's access to justice committee, is concerned about the impact of deep cuts to legal aid on the criminal justice system. "Legal aid is really important," he said. "Justice is the most fundamental need for citizens. It has to be more important than education or health. What use is the rule of law if you don't have access to justice."

#### **IPCC Concern Over Police Use of Tasers to Gain Compliance** *Vikram Dodd, Guardian*

Police officers have been accused of using Tasers to inflict pain to gain compliance, a report by the police watchdog says. Concerns are also raised about the use of Tasers on suspects already in custody, in the findings by the Independent Police Complaints Commission. Police use of Tasers is controversial. They can be used to fire barbs that deliver an electric current, subduing a suspect. They can also be used in "drive-stun" mode, to apply a shock directly to the body. The report says: "The IPCC has major concerns about the use of Tasers in 'drive-stun' mode, where the Taser is applied directly to the body without a cartridge rather than fired from a distance." It adds: "There is a risk, given the increase in Taser use, that police officers could become increasingly reliant on using force to gain compliance. This is particularly apparent in drive-stun mode."

The watchdog calls for reforms in guidance and training, and notes use of "drive-stun" by officers can occur when they are grappling with suspects and thus are too close to fire a Taser's barbs. IPCC commissioner James Dipple-Johnstone said: "When used in this way it is purely a means of pain compliance. Yet in several of the cases we reviewed, where it was used for the purpose of gaining compliance, it had the opposite effect, stimulating further resistance." The use of Tasers has trebled since 2009, increasing from 3,128 to 10,380 uses. The IPCC said 1% of these cases result in it receiving a complaint.

The report says the IPCC has particular concern about the use of Tasers on those already in custody: "The IPCC believes that this is only justifiable in exceptional circumstances, taking into con-

the Convention, in both its substantive and procedural aspects; Violations of Article 5 (right to liberty and security); Article 8 (right to respect for private and family life); Article 13 (right to an effective remedy); and, Article 6 § 1 (right to a fair trial). As regards Mr Al Nashiri, the Court further held that there had been a violation of Articles 2 (right to life) and 3 of the Convention taken together with Article 1 of Protocol No. 6 (abolition of the death penalty).

#### **Bangladeshi Woman Dies in West Midlands Police Custody**

Sharmilla Ullah was detained on suspicion of shoplifting and taken to Bloxwich police station on 9 July. She became unwell whilst in custody and was taken to Walsall Manor hospital where she received treatment, before she was released back into police custody in the early hours of 10 July. Later that morning Sharmilla was taken back to hospital, but was declared dead shortly after arrival.

Sabina Khadija, the sister of Ms Ullah, told local press last week that the family urgently wanted to know what had happened to her: 'My mum and my sisters and I are all devastated that Sharmilla has died and we just want to know what happened between her being arrested and her dying. Sharmilla was the youngest sister of seven and she was always full of life'. Officers told the family that Sharmilla had died in her cell, the Express and Star reported.

A spokesperson for the Independent Police Complaints Commission (IPCC) confirmed to IRR News that the cause of death has not been ascertained and that it has mounted an investigation. It has yet to issue an official press release, some two weeks after the death.

#### **Cleveland Police Racism Report Complaints Returned by IPCC**

A police force that referred itself to a watchdog over a review into claims of institutional racism has had the matter returned to it for investigation. Cleveland Police said it received criticism of aspects of its Equality Review, conducted in 2011 and 2012. It concerned two officers, a member of police staff and "matters which relate to the Chief Constable, Jacqui Cheer". The Independent Police Complaints Commission (IPCC) has referred the matter back to the force to deal with. However, the force and the Police and Crime Commissioner's office have decided that, "in the interests of ethical independence", it would be "appropriate" to appoint an external police force to investigate. Cleveland's Equality Review followed a report that included claims by black and ethnic minority officers that they had been overlooked for promotion and disciplined more harshly than white colleagues. Ms Cheer has previously denied the force is institutionally racist, but said it had "serious issues to address". The force referred complaints relating to "various aspects of the management of the Equality Review" and the "subsequent media coverage" to the IPCC last month.

#### **Rape Trial Collapses Because of 'Sleeping Judge'**

Recorder Philip Cattan, a respected Manchester barrister who sits as a judge part-time, apparently nodded off as the young victim was being questioned by the defence during the trial at Manchester Crown Court. The 65-year-old judge was then asked by barristers to send the jury out of court so that a point of law was raised, on the first day of the trial of John Quigley, 49, on Monday. It was then that Judge Cattan was confronted with claim that he had slept through a crucial part of the case - evidence given by the under-aged alleged victim via video-link. The claim led the judge to discharge the jury and to order a retrial, meaning the complaint has cost the taxpayer around £10,000. The family of the alleged victim witnessed the judge's apparently falling asleep, the Manchester Evening News reported.

found no evidence that any SDS officer targeted or infiltrated any family member of any Justice Campaign, nor the Justice Campaign itself, and we can find no trace of any personal information about family members having been recorded by them.

A spokesperson for the De Menezes Family Campaign said: "It is shameful that the Metropolitan police spied on the legitimate campaign activities of a grieving family who were simply trying to get the answers they deserved after their loved one was killed by police officers." It begs the question - what exactly were the police spying for? We can only assume they were gathering information in an attempt to discredit the family's campaign for justice in order to deflect accountability for their own failings. "Hearing the news just one day after the anniversary of the shooting exacerbates the family's distress at a time when they are remembering Jean Charles and what he meant to them - a loving, caring, 27 year old, shot down in the prime of his life."

### **Race-Hate Prisoners Tried to Send Bombs to Solicitors**

Two inmates at a maximum security prison have been condemned by police for posting crude explosive devices and racist letters to solicitors in West Yorkshire. Bret Atkins, 23, and Jamie Snow, 27, prisoners at HMP Full Sutton near York, sent a series of threatening letters which police say were "designed to instil fear in their recipients". Officers from the North East Counter Terrorism Unit were alerted to what they were doing by prison officers after they intercepted a letter containing an incendiary device. A jury at Leeds Crown Court found Atkins guilty of conspiracy to send an explosive substance with intent and Snow, originally of Potternewton, Leeds, previously admitted sending an explosive substance with intent and two offences of threats to kill. They will be sentenced in September.

Detective Chief Superintendent Ian Wilson of the North East Counter Terrorism Unit said: "Bret Atkins and Jamie Snow waged a campaign of hate against innocent people, choosing victims purely on the grounds of their race or religion. They expressed deeply racist and anti-Muslim views and sent a series of threatening letters, designed to instil fear in their recipients. Snow and Atkins took their hatred beyond threats to kill and even tried to post explosive materials in an attempt to cause harm or injury. Thankfully this mail was intercepted by vigilant officers within the Prison Service and was never able to enter the postal system. Snow and Atkins may already be in prison, but they will still be held accountable. We will continue to work with the Prison Service to respond to racially aggravated incidents." *Yorkshire Post*

### **Secret Rendition and Detention by the CIA in Poland - Violation of Human Rights**

The cases *Al Nashiri v. Poland* and *Husayn (Abu Zubaydah) v. Poland* concerned allegations of torture, ill-treatment and secret detention of two men suspected of terrorist acts. The applicants allege that they were held at a CIA "black site" in Poland. Having regard to the evidence before it, the Court came to the conclusion that the applicants' allegations that they had been detained in Poland were sufficiently convincing. The Court found that Poland had cooperated in the preparation and execution of the CIA rendition, secret detention and interrogation operations on its territory and it ought to have known that by enabling the CIA to detain the applicants on its territory, it was exposing them to a serious risk of treatment contrary to the Convention.

ECtHR held, unanimously: in both cases, that Poland had failed to comply with its obligation under Article 38 of the European Convention on Human Rights (obligation to furnish all necessary facilities for the effective conduct of an investigation); in both cases, that there had been: a violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of

sideration the controlled nature of the custody environment." The IPCC said it has not found Taser use directly caused a death. But inquiries and inquests continue in three deaths after Taser use, including Andrew Pimlott who burst into flames after he doused himself in petrol and was Tasered by officers in Plymouth. The report says that in two cases people with epilepsy were Tasered, causing one person to have a seizure, while another who struck by electric current while having a seizure. In two cases officers fired Tasers at innocent people who had been wrongly identified as suspects, and in one case a suspect turned a person into a "human shield" when confronted by an officer armed with a Taser, with the result the innocent passer by was struck by the current. The report notes, and police maintain, Taser use saves lives and can mean officers are less likely to have to resort to firearms, but raises concerns about their use on young and mentally ill people.

### **'Lord' Davenport Ordered to Pay £14m or Return to Jail** *Simon Bowers, The Guardian*

Eddie "Lord" Davenport, the serial fraudster best known for promoting the notorious Gatecrasher Ball events popular with public school pupils in the 1980s, has been ordered to pay almost £14m in fines and compensation or return to jail for a further 10-year sentence. The ruling comes almost three years after Davenport, who despite past affectations does not hold a peerage, was sentenced to seven years and eight months in jail for £4.5m of loan frauds, preying on scores of small businesses in desperate need of finance between 2005 and 2009. His sentence was later reduced and he was released from prison two months ago.

At the heart of Davenport's fraudulent business activities had been a 24-room townhouse on Portland Place, the only substantial recoverable asset prosecutors have been able to trace to him. Under Davenport's ownership, the house hosted celebrity parties and a "upmarket" swinger event called Killing Kittens. It was used as the venue for music videos, including Amy Winehouse's Rehab, a location for films such as The King's Speech and for Kate Moss's Agent Provocateur fashion shoot. Three years ago, a US drinks business converted one room into a giant Courvoisier-filled punchbowl as a publicity stunt.

It has taken the Serious Fraud Office three years to convince the courts that proceeds from Davenport's fraudulent activities were used in the unorthodox purchase of the building. The house had previously been the Sierra Leone high commission until Davenport controversially acquired it for a below-market sum in 1999 while the west African country was in the middle of a civil war. He will now be under pressure to sell the property in order to avoid further time in jail. Judge Testar, who also presided at Davenport's lengthy trial, said on Thursday: "For some four years I have had a deep sense that moving matters along in the case has been a truly Sisyphean task, both before during and after the trial ... In the end I have decided that the risk of Mr Davenport retaining some of the fruits of his crime is one that my public duty dictates I should not take."

A confidence trickster, Davenport surrounded himself with what appeared to be the trappings of wealth: a Monaco address, a garage full of luxury cars and a wardrobe packed with Savile Row suits. He also cultivated an image as a risqué figure on the fringes of high society and the celebrity circuit, a regular in gossip columns. Bogus accounts, glossy brochures and adverts in the Financial Times added to the impression of credibility. Davenport and his accomplices also adopted a string of aliases.

Desperate businesses, unable to get loans from their banks, turned to Davenport's firm Gresham, which had been masquerading as a loan provider with a reputable track record. None of the loans were ever advanced, but businesses were persuaded to part with huge sums in "deposits" and fees for "verification", "loan guarantee" and "due diligence".



### Police Involved in 118 deaths in 2013/1014

- 11 deaths in or following police custody
- 68 apparent suicides following police custody
- 39 other deaths following police contact (IPCC independent investigations only)
- 12 road traffic fatalities • No fatal police shootings

The IPCC's annual report into deaths during or following police contact shows that there were 11 deaths in or following police custody in 2013/14, down from 15 the previous year and less than a third of the 36 recorded in 2004/05 when the IPCC was first set up. The number of police-related fatal road traffic incidents was also at its lowest over the ten year period and for a second consecutive year there were no fatal shootings by police. But the number of those recorded as having apparently committed suicide within 48 hours of release from police custody is the highest over the last ten years, at 68 this year. As in previous years mental health featured in a number of the deaths and this remains a serious concern. Just over a third of those dying in or after police custody, and two-thirds of those apparently committing suicide after custody were known to have mental health concerns.

Deaths in or following police custody includes deaths that occur while a person is being arrested or taken into detention. It includes deaths of people who have been arrested or have been detained by police under the Mental Health Act 1983. The death may have taken place on police, private/medical premises, in a public place or in a police or other vehicle. This includes:

- Deaths that occur during or following police custody where injuries that contributed to the death were sustained during the period of detention.
- Deaths that occur in or on the way to hospital (or other medical premises) following or during transfer from scene of arrest or police custody.
- Deaths that occur as a result of injuries or other medical problems that are identified or that develop while a person is in custody.
- Deaths that occur while a person is in police custody having been detained under Section 136 of the Mental Health Act 1983 or other related legislation. This does not include:
- Suicides that occur after a person has been released from police custody.
- Deaths that occur where the police are called to assist medical staff to restrain individuals who are not under arrest.
- Apparent suicides following police custody includes apparent suicides that occur within two days of release from police custody. This category also includes apparent suicides that occur beyond two days of release from custody where the period spent in custody may be relevant to the subsequent death.

Other deaths following police contact includes deaths that follow contact with the police, either directly or indirectly, that did not involve arrest or detention under the Mental Health Act 1983 and were subject to an IPCC independent investigation. An independent investigation is determined by the IPCC for the most serious incidents that cause the greatest level of public concern, have the greatest potential to impact on communities or that have serious implications for the reputation of the police service. Since 2010/11, this category has included only deaths that have been subject to an IPCC independent investigation. This is to improve consistency in the reporting of these deaths. This may include:

- Deaths that occur after the police are called to attend a domestic incident that results in a fatality.
- Deaths that occur while a person is actively attempting to evade arrest; this includes instances where the death is self-inflicted.
- Deaths that occur when the police attend a siege situation, including where a person kills themselves or someone else.
- Deaths that occur after the police have been contacted following concerns about a person's welfare and there is concern about the nature of the police response.
- Deaths that occur where the police are called to assist medical staff to restrain individuals who are not under arrest

The family of Groce, who was shot and paralysed by police in a bungled raid on her home in 1985, has also been contacted. Her shooting sparked the Brixton riots in 1985. After a long campaign for justice, Sir Bernard Hogan-Howe, the Met's police commissioner, apologised "unreservedly" to the family this month after accepting that the force's failings had put them through "years of suffering". In both cases no more is known about any intelligence-gathering.

Mick Creedon, the Derbyshire chief constable who is running the internal investigation into the undercover unit that operated between 1968 and 2008, will criticise Scotland Yard for disregarding "rules and legislation that clearly set out what they should, and should not have, collected and retained". In a statement on Wednesday, he said that he will criticise the Met for "the routine gathering and retention of information that was collateral, not linked to an operation or the prevention of crime and it should have been disposed of as part of a weeding process." Creedon said: "My report is very clear that criticism must be levelled at the MPS [Metropolitan Police] for keeping information, which had been gathered by undercover officers, which served no purpose in preventing crime or disorder."

The criticisms come four months after an independent inquiry concluded that the Scotland Yard undercover unit had spied on the family of Stephen Lawrence, who ran a long campaign to try to persuade police to investigate the death of their son more rigorously. Home secretary Theresa May ordered a public inquiry into undercover policing after discovering the "profoundly shocking and disturbing" revelation about the Met's "spy in the Lawrence family camp". Creedon's team has told the family of Reel, a 20-year-old student whose body was discovered in a river after he was abused by racists, that undercover officers gathered some information about them "inappropriately".

Reel's family has been pressing the Met for years to carry out a proper investigation into his death, claiming that the police have not taken his death seriously because he was Asian – a charge denied by the police. Detectives have maintained that his death was likely to have been an accident. Sukhdev Reel, his mother, said she was "shocked and very upset" when officers told her that the SDS had logged details of her activities in 10 secret reports. She was told that she had been recorded taking part in a vigil, presenting a petition and making a submission to the official inquiry into the police's botched investigation of the racist murder of Lawrence in 1993. She said the police would not explain why some of the surveillance was "inappropriate". She told the Guardian that at the time the police were spying on her, her family had been "almost on our knees begging" the police to put more resources into investigating Reel's death, but police had refused. "As a family, we have always been victimised by the police, first of all, with Ricky being racially abused and secondly, by the incompetent police investigation. Now it feels as if we have been taken advantage of again, by being reported on when we should not have been, at a time when we were grieving for Ricky."

Reel's family has been campaigning for a proper police investigation since the Brunel University student went missing in 1997 during a night-out with friends. The group was verbally abused by two white youths who shouted "Pakis go home" and then attacked in Kingston-upon-Thames, London. The group scattered for safety, but later when they regrouped, Reel had vanished. The family quickly pointed out that there had been a racial attack, but said the police ignored them. A week later, his body was found in the River Thames. An inquest recorded an open verdict while two police investigations have been unable to establish how he died. Detectives have worked on the theory that Reel had fallen into the river while urinating, as his flies were undone. Creedon added: "To date we have

served that the labels on the bottles of drugs used be kept for future examination.

In an impassioned statement, Wood's lawyer, Dale Baich, said: "Arizona appears to have joined several other states who have been responsible for an entirely preventable horror - a bungled execution. The public should hold its officials responsible and demand to make this process more transparent." Baich said the state's investigation would be insufficiently independent. "Because the governor and the highest law enforcement official in Arizona have already expressed their view that Mr Wood did not suffer, and because the state of Arizona fought tooth and nail to protect the extreme secrecy surrounding its lethal injection drugs and execution personnel, the only way to begin to remedy this is with open government and transparency,"

The American Civil Liberties Union (ACLU), which has been campaigning against death penalty secrecy in several states, said that Arizona had violated the first amendment, the eighth amendment and the bounds of basic decency. "Joseph Wood suffered cruel and unusual punishment when he was apparently left conscious long after the drugs were administered. It's time for Arizona and the other states still using lethal injection to admit that this experiment with unreliable drugs is a failure," said Cassandra Stubbs, director of the ACLU's capital punishment project.

Numerous legal challenges have been attempted in the courts arguing that such secrecy puts prisoners in danger because it prevents them from ensuring that the drugs being used to kill them are of sufficient strength and efficacy to do the job humanely without breaching their eighth amendment right against cruel and unusual punishment. Successive courts – including the US supreme court, most recently on Tuesday night in the Wood case – have dismissed that argument as lacking in substance. But the spectacle in Arizona of a prisoner taking almost two hours to die after he was administered drugs, the origin of which was kept secret, will can only bolster the cases of lawyers and anti-death penalty campaigners. The midazolam-hydro-morphone combination used on Wood was also used by Ohio in January to put to death Dennis McGuire. Expert anaesthetists had warned that the state was using too weak a dosage, yet Ohio officials went ahead – with the result that McGuire took 26 minutes to die. Midazolam was also used in the botched execution of Clayton Lockett by Oklahoma in April.

### **Police Spied on Grieving Families of De Menezes, Groce and Reel**

Rob Evans and Vikram Dodd, the Guardian

Undercover police gathered intelligence on grieving families who were battling the Metropolitan police for justice, including the relatives of Jean Charles de Menezes, Cherry Groce and Ricky Reel. Police have approached the three families, inviting them to discuss their findings. The meeting with Reel's relatives has already taken place and they were told they had been subject to "inappropriate" surveillance. Scotland Yard claimed that the families were not the target of the operations but information on them was gathered and wrongly retained as part of the covert infiltration of political groups. The revelations come as an internal police investigation into the Met's undercover Special Demonstration Squad (SDS) is poised to severely criticise the force for a lack of regard to the rules and law covering the deployment of undercover officers. The report will say that the information collected by the controversial undercover unit "served no purpose in preventing crime or disorder". Among those who have been contacted by the police are the family of De Menezes, the Brazilian electrician who was shot dead by police in 2005 after being mistaken for a bombing suspect in the aftermath of the 7 July attack on London. Police say that they want to discuss information uncovered in the files of the undercover SDS .

### **Report on an Unannounced Inspection of HMP Ranby**

Inspection 10/21 March 2014 by HMCIP, published 24/07/14. HMP Ranby is a large prison holding just over 1,000 prisoners. It aims to fulfil its function as a working prison providing education, training and work to all, as well as resettlement services, as prisoners move towards their eventual release. Nick Hardwick said, "This report is troubling and we identified many problems within the prison. Ranby's role is to provide prisoners with work, and access to learning and skills, to equip them for the future and to manage their resettlement. In this respect the prison was not yet delivering a good enough outcome. In order for the prison to work, the starting point must be to make it safer."

Inspectors were concerned to find that: - there had been two self-inflicted deaths in 2013, the first for five years, and another two occurred after this inspection; - conditions in the first night centre were dirty and unprepared and too many prisoners there were seeking sanctuary from the rest of the prison; - many indicators showed that the prison was unsafe: nearly half the population said they had felt unsafe at some time and reported levels of victimisation and intimidation were concerning; - levels of violence were higher than expected and evidence suggested they were getting worse; - there appeared to be a significant number of incidents where prisoners climbed on netting, some of which involved prisoners who felt unsafe and whose motivation was to attempt to force a transfer from the prison; - Structures and systems to reduce violence and intimidation were unsophisticated and ineffective; - use of segregation was high and increasing, with most of those held seeking sanctuary or an exit from the prison; - case management procedures to support those at risk of self-harm were of a poor quality, and there was evidence that the number of self-harm incidents was increasing; - prisoners explained their self-harm as a response to threats and intimidation from others. - there was evidence to indicate the increased availability of currently undetectable psychoactive substances ('legal highs') as well as diverted prescription medications; - around 28% of prisoners were locked in their cells during the working part of the day and 200 prisoners were not working, which was unacceptable; - work to reduce reoffending lacked effectiveness, with no clear strategy and vision for the prison; - the range of resettlement services had deteriorated in quality. - The staff we observed were busy and often office-bound but generally respectful. However, prisoners were more sceptical and questioned the quality of respect engagement and communication they received from staff. - Inspectors made 106 recommendations

### **Foreign Criminal Cannot be Deported Because of his Illegitimacy!**

The proposed deportation to Jamaica of a man convicted of drug smuggling and manslaughter would breach his rights under Article 8 and Article 14 because he had not obtained British citizenship on grounds of illegitimacy, the High Court has ruled. The claimant challenged his proposed deportation to Jamaica, following his conviction and imprisonment for a very serious criminal offence. He submitted that deportation would violate his right to private and family life under Article 8 combined with the prohibition on discrimination under Article 14. The discrimination was said to arise because the claimant did not become a British citizen when he was born in Jamaica as the illegitimate child of a British citizen, whereas he would have been a British citizen if he had been a legitimate child, and a British citizen cannot be deported.

Following his conviction for manslaughter the claimant was sentenced to 9 years' imprisonment. The length of his sentence meant that he was subject to automatic deportation as a foreign criminal pursuant to Section 32 of the UK Borders Act 2007. On his appeal against the

respondent's notice, the issue of discrimination arose because of the fact that the claimant would not have been a foreign national had his British father been married to his Jamaican mother when he was born (in Jamaica). The issue before the Court was whether there had been a violation of Article 14 in conjunction with Article 8 of the ECHR, either because the claimant was treated differently on the ground that he was illegitimate, or because he was treated differently on the ground that he had a different immigration status. The judge upheld the application.

Reasoning behind the judgment Article 8: The right to acquire a particular nationality is not covered by Article 8 or any other provision of the Convention (Commission Decision K and W v Netherlands (1985) 43 D&R 216) although Strasbourg started moving away from this position when it ruled that an arbitrary denial of citizenship may engage the Convention (Karashev and family v Finland (1999) 28 EHRR CD132). Despite frequent assertions by the Court that entitlement to citizenship is not one of the Convention rights, Articles 8 and 14 frequently became the platform for successful applications in this regard. In *Genovese v Malta* (2014) 58 EHRR 25 the Court found that the Maltese government's denial of citizenship to the applicant had violated Article 14 in conjunction with Article 8 regarding the difference of treatment based on birth out of wedlock: *While the right to citizenship is not as such a Convention right and while its denial in the present case was not such as to give rise of a violation of article 8, the Court considers that its impact on the applicant's social identity was such as to bring it within the general scope and ambit of that article.* In these circumstances Dingemans J was satisfied that the claimant's case was within the ambit of Article 8. *This is because the claim involves the Claimant's social identity, as a person entitled to stay in the United Kingdom, as the child of his British father.*

Article 14: It was clear from the wording of article 14 "... birth or other status", and the decision of the European Court of Human Rights in *Genovese* that discrimination on the basis of birth is a prohibited ground for drawing differences between people. "But for" his lack of British citizenship, which in turn was based on his lack of legitimacy, the claimant would not be facing deportation as a foreign criminal under the UK Borders Act.

Nor was there any justification for treating the claimant differently because he was illegitimate. As the Strasbourg Court explained in *Genovese* it is not permissible to treat children born out of wedlock as having no link with their parents. For these reasons the judge found that there had been a violation of Article 14 in conjunction with Article 8, because the claimant was being treated differently on the ground that he was illegitimate, and such treatment was not justifiable. Since it was not possible to interpret the provisions of the relevant statute to permit the Home Secretary to make good this breach of the Convention by allowing persons in the claimant's position to "opt in" to British citizenship, the parties were advised to agree remedies to give effect to his judgment, failing which a further hearing would be arranged.

### **Government Wants Impunity from UK Courts over Torture**

The government is determined to prevent ministers and officials from being accountable to the courts for colluding in wrongdoing abroad even if it involves torture, three of the country's most senior judges were warned on Monday. In a case with "profound and far-reaching implications for the rule of law", British officials would enjoy "impunity from its own courts", the judges were told. The warnings came from Richard Hermer QC, acting for Abdel Hakim Belhaj and his Moroccan wife, Fatima Bouchar, who were abducted in a joint MI6/CIA operation in 2004 and secretly flown to Tripoli, where Muammar Gaddafi's security forces tortured him.

Belhaj wants to sue MI6 and other British agencies, and the then Labour foreign secretary,

### **Joseph Wood Dies Almost Two Hours After Botched State Execution Begins**

The controversy engulfing the death penalty in the United States escalated on Wednesday 23rd July 2014 when the state of Arizona took almost two hours to kill a prisoner using an experimental concoction of drugs whose provenance it had insisted on keeping secret. Joseph Wood took an hour and 58 minutes to die after he was injected with a relatively untested combination of the sedative midazolam and painkiller hydromorphone. The procedure took so long that his lawyers had time to file an emergency court motion in an attempt to have it stopped. For more than an hour, he was seen to be "gasping and snorting".

The attempt to execute Wood had begun at 1.52pm, with sedation of the prisoner confirmed five minutes later. The office of the Arizona attorney general, Tom Horne, announced at 3.49pm local time that Wood was dead. According to the emergency motion, Wood was seen to be still breathing at 2.02pm, and the next minute his mouth moved. "He has been gasping and snorting for more than an hour," his lawyers said. When the officials in charge of the execution checked the prisoner at 3.02pm – an hour and 10 minutes after the procedure began – he was confirmed still to be alive. One eyewitness, Michael Kiefer of Arizona Republic, counted the prisoner gasping 660 times. Another witness, reporter Troy Hayden, told the same paper that it had been "very disturbing to watch ... like a fish on shore gulping for air." Mauricio Marin, a television reporter with Kold News 13, told the Guardian that Wood had appeared to be sedated with his eyes closed. But he said in an email that Wood was "gulping or gasping for air. His stomach moved at times while the gulping/gasping for air as if one would while breathing laying down."

Wood, 55, was put to death for the 1989 murders in Tucson of his former girlfriend Debra Dietz and her father Eugene Dietz. The duration of the execution was extreme even in the context of recent botched judicial killings in the US. Clayton Lockett, who writhed and groaned on the gurney in Oklahoma in April, took 45 minutes to die – less than half the time it took in Wood's case. Lockett's death provoked a nationwide and international outcry. In the fallout, President Obama was prompted to launch a review into the practice of the death penalty in the country that is still ongoing.

The hours leading up to Wood's execution were marked by a frenzied legal battle over the secrecy imposed by state officials on the source of the drugs. It was put on hold several times – first by a federal appeals court, then by the state supreme court of Arizona. On Tuesday the US supreme court removed the stay, allowing the execution to go ahead. Wood's legal team had argued that as a member of the public, he had a right to know under the first amendment of the US constitution about the source and nature of the drugs that were being used to kill him, as well as about the qualifications of the officials who would administer the lethal injections. The ninth circuit federal court of appeals ordered a stay of execution to give time for proper legal reflection.

Within a few hours of Wood being pronounced dead, senior officials in Arizona had begun a damage limitation exercise in which they tried to reassure the public that his execution had been painless. The governor, Jan Brewer, ordered an investigation but said the death had been lawful, adding that "by eyewitness and medical accounts he did not suffer. This is in stark comparison to the gruesome, vicious suffering that he inflicted on his two victims – and the lifetime of suffering he has caused their family."

The state corrections department that carried out the execution insisted that it had followed protocol and that he had been in "deep sedation" throughout. State officials came under pressure from the courts to preserve evidence. A federal court ordered the state to preserve Wood's body and to draw down blood from six locations on it by a deadline of 8pm, as well as take tissue sample from his brain, liver and muscles. The supreme court of Arizona also stepped in and pre-

previous research from the New South Wales Bureau of Crime Statistics and Research, which calculated that a 15% reduction in re-imprisonment in that state had the potential to save \$46m. What is abundantly clear is that highly achievable reductions in re-imprisonment can contribute to reducing prison populations and that the potential savings are substantial.

But to understand how to reduce recidivism, we must understand the complex disadvantage of people in the prison system. For example, 43% of people leaving prison expect to be homeless, 40% of people in prison have a relative who has been imprisoned and 55% of people in prison have drug or alcohol problems. Just 6% of males and 14% of females in prison have completed secondary education or post-school qualifications. This disadvantage is too often entrenched in a small number of communities.

While it is true that many people leave prison into web-like structures of disadvantage where they may experience or be exposed to unsafe housing, physical and mental illness, unemployment, drug and alcohol addiction and family violence, vulnerable young people, women and Indigenous Australians face additional challenges. It is alarming that much of the growth in Australia's prison population over the past decade has been among these groups, with the number of Aboriginal and Torres Strait Islander people in prison increasing by 75% and the number of women by 47%. There is a clear need to provide better support to these people when they return to the community.

Despite evidence about the high levels of need and vulnerability and the benefits to be gained from supporting them, focus underdone by criminal justice policies fixated on the supposedly "tough on crime" agenda which is fuelling our prison expansion. In Victoria around \$3.5m is spent each year, from an annual Corrections Budget of over \$900m, to provide transition support to just 695 of the approximately 6,600 people leaving prison, while in New South Wales the Community Restorative Centre's program providing long-term support for people exiting prison is losing its funding. Our report, Strengthening prisoner transition to create a safer Victoria, outlines some key areas for improving transition and reducing re-imprisonment. This includes longer, deeper and fuller support for those exiting prison, in contrast to the limited support currently offered. In addition, providing greater housing options (such as a rental brokerage service supporting those exiting prison to access private rental), increased investment into seamless transitions between health, disability and alcohol and drug services – both in and out of custody – would ensure that the thousands of people who exit the system do so with access to a range of integrated, tailored services.

We welcome the Victorian Ombudsman's announcement of an investigation into rehabilitation programs and transitional services available to offenders, and await the findings in October. It is a positive step forward but there is still a long way to go. Ultimately, any approach to preparing people in prison for return to the community must start from the moment people enter the system. Prisons that are increasingly overcrowded are unsafe and fail in their responsibility to prepare people for productive lives when they return to the community.

Above all else, education and training is vital. It is unacceptable that, according to the Productivity Commission, only a third of people in prison are participating in education and training. Given the role that education, training and work can play in supporting people to live productive lives, investment to increase this should be understood as a vital investment in the safety of our community. If we want to ease the pressure on our prison system, we must start by working with those offenders who cycle in and out of our jail cells. At the heart of our response must be a relentless targeting of the disadvantage that underlies much of their involvement in these systems.

Jack Straw, accusing them of involvement in the rendition operation and arguing that they should share responsibility for it. Lawyers for Straw and the government's security and intelligence agencies claim they should be protected by the so-called "foreign act of state doctrine". They say that under this doctrine, British courts should not pass judgment on acts where British officials acted with foreign agents abroad. Government lawyers say any wrongdoing in this case happened outside the UK – in Malaysia and Thailand, where the CIA aircraft transporting the family landed on the way to Tripoli, and in Libya. If the government has its way, Hermer told the master of the rolls, Lord Dyson, Lord Justice Lloyd Jones, and Lady Justice Sharp, British officials would have "immunity from accountability" in civil courts here "irrespective of the illegality of the act".

In the high court last year, Mr Justice Simon dismissed Belhaj's claim, citing the "foreign act of state doctrine". However, the judge said he gave his ruling "with hesitation" on "what appears to be a potentially well-founded claim that the UK authorities were directly implicated in the extraordinary rendition of the claimants". But Hermer told the appeal court on Monday that the acts of British officials abroad was the issue, not those of foreign states. In any case, torture was not only illegal under English law, it was against the law of those other countries where the rendition took place, he said. The effect of Simon's judgment, Hermer said in a written submission, was that "UK officials can participate in a conspiracy to abduct and torture but avoid liability in the domestic courts (or anywhere else)".

Amnesty International, Justice (the British affiliate of the International Commission of Jurists), and Redress, the human rights organisation helping torture survivors obtain justice and reparation, have joined the case. The UN special rapporteurs on torture and arbitrary detention have also been granted permission to intervene on Belhaj's behalf. In a written submission for the organisations, Martin Chamberlain QC, told the court: "The outcome of this appeal has significant potential to determine the availability of an effective remedy to victims of gross violations of human rights both in the United Kingdom and other common law jurisdictions where officials act in concert with officials from other states." He added: "The special status of the absolute prohibition of torture is well established in international law." The role of MI6 and the CIA in Belhaj's rendition was revealed in 2011 after Nato bombing destroyed the headquarters of Gaddafi's intelligence chiefs and scattered documents from their files. Whitehall sources say that in their dealings with Gaddafi, MI6 was carrying out "ministerially authorised government policy". When the Guardian has asked Straw about the renditions, he has said he cannot comment because of a continuing police investigation into the affair.

### **Early Day Motion 271: Support For Child Arrangement Order Applicants**

That this House notes that the process of applying for and disputing child custody arrangements can be complex and that the process can be difficult for many parents; further notes that the process of applying for and disputing child arrangement orders often follows a relationship breakdown or a time of personal crisis and that this can present further difficulties for those involved; further notes that a poor understanding of the process can result in inadequate representation to the court and misinformed judgements; further notes the danger that an unsuitable person, such as an abusive ex-partner, may be granted a child arrangement order because the other parties involved do not sufficiently understand the process and do not well present the relevant information; further notes that it is important for there to be adequate support available for parents involved in such a dispute to ensure that the courts have all the necessary information to make an informed decision about the child's welfare; and calls on the Government to take steps to provide that proper support and legal advice can ensure that violent and abusive parents do not gain custody of the child.



### **Alleged Police Crimes (Investigations) - House of Commons Debate**

*Charles Hendry (Wealden) (Con):* Late one February evening five years ago my young constituent, Luke Bland, received a call from one of his closest friends, Ben Blackford. Ben's car had been involved in a minor accident and he asked for Luke's help to move it. Even though it was a dark night and the conditions were icy, Luke—a bright 20-year-old who was hoping to join the police—did not hesitate and went off to help him on the road between Uckfield and Lewes. At around 1.30 in the morning, having moved Ben's car to a safe position off the main road into a side lane, the two young men were walking along the public footpath to meet the police officers who had arrived at the scene. At that moment, another car, a Lotus Exige, came round the corner, out of control. It hit both young men. Luke was hit so hard his body was knocked over a fence and into an icy pond 12 metres away. He died instantly. The Lotus then hit Ben and carried him underneath it, as it careered over the verge, went through a fence and came to a halt in the pond. Ben sustained injuries from which he has not yet recovered, and in all probability never will do.

There are other matters which are not the subject of this debate but which should cause us disquiet, such as the fact that the driver's insurers paid for him to have a new car, but there was no claim entitlement for the loss of a young man's life. Indeed, in seeking justice Luke's family had to spend thousands of pounds of their own money to take on the system. One could put this down as a tragic accident. For Luke's parents, Sally and Peter, and his brother and sister, it was the loss of a much loved son and brother, but could it have been avoided on such an icy night? How could the driver have known that two people would be on the pavement that night? Indeed, that was the outcome of the trial, which found that the driver was not guilty of dangerous driving. However, the more I have looked into this case, the more evident it has become that there has been a terrible miscarriage of justice.

The driver of the other car was an off-duty police traffic officer, Stewart Chalmers, who was back at work quickly and without a blemish on his record. His destroyed Lotus was replaced, by his insurance company, with a Porsche. His life was back on track. He was back at work as a road traffic officer, stopping other motorists who were breaking the law, perhaps without a valid MOT or insurance. But thanks to dedicated research by the parents of Luke and Ben we know now that that is exactly what Mr Chalmers had himself been doing prior to the accident: driving without a valid MOT or insurance. The issue in this debate is how crimes by police officers are handled and how the rights and interests of the victims can be lost.

In my 13 years as MP for Wealden, I have met hundreds of Sussex police officers—we all do this in the course of our work. I have found them exactly as I would hope police officers to be: conscientious, decent, hard-working people who want to make their communities safer. But for all those hundreds of good officers, every barrel has, as they say, some rotten apples. As soon as Stewart Chalmers had hit the two young men, those police officers who were already at the scene, having witnessed the accident, ordered him out of his damaged car. It is recorded in witness statements that they soon realised that the Lotus driver was a police officer, and he was ushered into a police vehicle. Had it been any ordinary member of the public involved in a death by driving incident, we would rightly have expected him to be questioned there and then, and indeed taken to a police station for further questioning. However, for reasons we have never established, he was not held for questioning and he was not taken to a police station. Instead, he was taken to be checked out at hospital and then allowed to go home.

In the days following the accident, the inspector in charge went on holiday but, having read the eyewitness statements, he left instructions for Stewart Chalmers to be arrested and questioned.

### **EDM 279: Inquiry Into Child Abuse & Crown Dependencies**

That this House, being conscious of the numerous cases of previously concealed child abuse in which individuals have been able to use their status as public figures to deter victims and to prevent or disrupt investigations of their crimes, and being conscious that in some cases abusers, and those who have concealed abuse, have been able to use their positions in public office and the institutions of the state such as Parliament and Government to shield them and their wrongdoing from proper, lawful scrutiny, recognises that the dangers of such cover-ups occurring are even greater in small, quasi-self-governing communities than at national level, where, even though checks and balances are more extensive, child abuse and cover-ups by the well-connected have still occurred; notes that a local public inquiry in Jersey into child abuse, the Independent Jersey Care Inquiry, has not gained the confidence of all victims and witnesses; and calls on the relevant UK authorities, the Secretary of State for Justice, the Crown and the Privy Council, in exercise of their responsibilities and powers to ensure good governance, the rule of law and proper administration of justice in the Crown Dependencies, to empower the overarching UK inquiry into child abuse to include the Crown Dependencies.

#### **Australia: Prevent Reoffending! How About Giving Former Prisoners Support?**

To understand how to reduce recidivism, we must understand the complex disadvantage of people in the prison system – and how they struggle to rebuild a life once outside. The number of people incarcerated in Australia's criminal justice system is expanding at an unprecedented rate. Nationwide, prison population is growing by around 9% each year, last year breaking the 30,000 barrier for the first time. As a consequence, prison systems across the nation are in crisis. They are rife with unprecedented overcrowding; health and rehabilitation services are unable to cope, and in Victoria, staff at the state's largest maximum security jail, Port Phillip Prison, are taking industrial action.

Governments are quick to tell us that their well publicised "tough on crime" measures – like longer sentences and stricter bail and parole regimes – serve to create the safer communities we all want to live in. They'd hope it is true given the extraordinary costs involved; Victoria alone investing a further \$454m to its prison expenditure in the most recent state budget. But dig a little deeper and the issue is a lot more complex than the headlines may have you believe. Nationwide, 58% of all prisoners have previously served a prison sentence. This statistic points to a system that is ineffective in preventing reoffending.

Despite the justified outrage we feel towards the horrific, high profile crimes we see on the front pages of newspapers, almost half of all prisoners nationally (46%) have been imprisoned for non violent offences. We also know that nearly all people currently in prison will be released back into the community at some stage. The median prison sentence is 21 months, a result of which is that most people in prison will exit within two years. In Victoria, a report issued earlier this year by the state ombudsman noted that a total of 6,600 people were released from Victorian prisons in 2012-13. History and evidence indicate that many of these people will reoffend and return to prison to place further burdens on both the prison system and the budget.

It is clear that the issue of reoffending is critical in any discussion about growing prison costs and expanding prisoner numbers. If we can reduce the high number of people who reoffend and return to prison, we can lessen some of the strain on our justice systems and, more importantly, contribute to reducing crime. Jesuit Social Services has recently completed economic modelling which outlines how a modest 15% reduction in re-imprisonment could reduce the annual cost of Victoria's prison system by between \$15.2m and \$23.4m. Our work utilised



unless they have to. They will hate me for saying that, but they do not. They like taking our premiums, but rarely pay out. It is clearly a matter for the insurance company whether to pay for the damage to the car and compensation to the families. It might also be a matter for civil litigation should the families wish to pursue that course. *The third point* concerns whether the Home Secretary should ensure that police are investigated in the same way as the public. They are, should they be on duty. If they are off duty, they are civilians: they are not doing their job of work, so they are not investigated by the IPCC in the same way. It is right and proper that those who are off duty are off duty, and when they are on duty they are on duty.

*Charles Hendry:* I am grateful to my right hon. Friend for giving way, and I am particularly grateful to him for the sensitive and thoughtful way in which he is responding to the debate. Will he, however, look at the role of the Police Federation in this? When an instruction was left that Stewart Chalmers should be arrested, the Police Federation got involved in a way that was described as “ferociously” by the police themselves. They then suggested that if they went ahead and arrested Stewart Chalmers, the police officer doing that would himself be sued personally. That cannot be a level playing field, because that would not happen if it was not somebody who had been a police officer who had done it.

*Mike Penning:* I thank my hon. Friend for his intervention. He must have read my thoughts on the point I was going to come to in my conclusion to this short debate. *The fourth point*—made, I am sure, on behalf of the family but through my hon. Friend—is that PC Chalmers should make a public apology. That is a matter for the gentleman concerned and for his own personal thoughts and conscience. I personally cannot in any way instruct the gentleman to do so.

However, because of the comments that have been made in this evening’s debate, I intend to go away and ask my officials to look into the conduct of individuals from the federation. I do not think we should smear the federation. It is going through a transitional period at the moment. I met the senior management of the federation earlier this afternoon; it was actually a very convivial meeting. They were very much standing up for their members, and in many ways I sympathise with some of the comments that they made, but they are really moving on, and I think in the right direction. However, I will ask my officials to look into the matter regarding the comments that my hon. Friend has made about what the Police Federation representative may or may not have said. I will ask my officials to look into that immediately. If I do not have the powers to do that, I will find someone who does.

With that in mind, I am conscious that this has been a very difficult matter for my hon. Friend to bring before the House. If I was a Back Bencher, I would really have to rack my brains about whether to do so, not because I would have to decide whether standing up for someone was right or wrong, but because the courts have made a decision, based on the evidence placed before them. That is the justice system we have in this country and that is the democracy we live in. With hindsight, and especially given the tone with which my hon. Friend has brought the matter before the House, I think it was right and proper that there was a Minister here to respond, even if on most of the points I do not have the powers to intervene, and nor would I wish to have them. With that in mind, I will take away the comments about looking into the Police Federation, and I truly hope that the family can have some peace after the loss of their loved one and that Ben gets better soon.

### **Woman Posted Selfies in Stolen Dress**

If you steal a dress, you might want to avoid any pictures of yourself in it. An Illinois woman is learning that the hard way, according to police, after posting photos to Facebook of herself in a leopard-print dress reported stolen from a local boutique. Danielle Saxton, 27, from West Frankfort USA, now faces misdemeanor retail theft charges,

We know that the Police Federation made representations—“ferociously” was the word used—against his arrest; shockingly, it actually threatened the arresting officer that he would be sued personally if he proceeded. Mr Chalmers was not, therefore, arrested until the inspector returned from holidays and demanded it—two whole weeks later. That two-week delay allowed Mr Chalmers to come up with a range of explanations for what had happened and why he should not be held responsible. On the night of the accident, Ben’s mother was called by the hospital where her seriously injured son was unconscious. Luke Bland’s parents were contacted in the middle of the night, not by the police but by a friend, to be told that their son may have been injured in the accident, too. They were only informed of his death when Mr Bland and his younger son went to the scene some four hours after the accident, fearing for Luke’s well-being.

The police, and the county’s excellent new chief constable, Giles York, now readily accept that they should have done many things differently: they should have questioned Stewart Chalmers immediately; they should not have told Mr Bland in front of his 17-year-old younger son Josh that Luke had been killed; they should have given more professional support to the grieving family; they should have been more thorough in their search of the area—the roof of the Lotus was not even found until Mrs Bland pointed out that it was missing from the vehicle inspection, and she herself found it, still sticking out of the pond; and they should not have escorted Mr Chalmers to his trial in a police car or taken him away at the end, with his lawyer, in a police car with its lights and sirens blazing.

My principal concern today, however, is the failure to investigate properly Mr Chalmers’ defence. I believe that the version he told the court was not the truth, the whole truth and nothing but the truth. It has been left to Mr and Mrs Bland and Mrs Browning to unearth the true facts, and in this desperately sad and awful case they should have been able to look to the police to do that. Mr Chalmers said in his sworn police statement, which was referred to in court, that “there had been no occasions when control had been lost”. He explained that the vehicle was serviced two weeks before the crash and was “in good condition”. His statement stated he was a careful driver, and indeed his defence rested on that claim.

Luke’s parents have discovered that that was not the case. On 28 October 2008, four months before the accident, Mr Chalmers took his car to be MOT-ed at Kwik-Fit in Uckfield. It failed its MOT because its nearside front tyre was below the legal threshold. Had Mr Chalmers been the good custodian he claimed, then surely, especially as a police traffic officer, he would have checked on a regular basis that his tyres were legal, but apparently not.

Mr Chalmers was allowed to take the car away to get the tyres replaced, which he did—eventually. It was three weeks later, on 19 November, that he took the car to Dream Machines in Heathfield to have the tyre replaced, by which time the car had been driven an extra 455 miles. That is 455 miles without a valid MOT and so, by definition, in a car without insurance; that is 455 miles of illegal driving. The car was then given a further MOT, which it passed but only with an advisory notice that that the rear tyres were close to the legal threshold. One might have thought that this time Mr Chalmers would have acted quickly, but no, he continued to drive the car without changing the tyres. By the time of the accident on 14 February, three months later, those rear tyres were indeed below their legal limit.

No one will ever know if the accident could have been avoided if the tyres had been in a roadworthy condition, but the court case would have been very different. If it had been established that, far from being the responsible driver he claimed, Mr Chalmers drove his car illegally, in an unroadworthy condition, and did not bother to check the legality of his tyres even when warned they were close to

the limit, the main line of his defence would have fallen apart. Mr Chalmers did not tell the Court that he had been issued with an advisory notice and he allowed the assumption to be drawn that he had replaced the worn tyres in November when that related to the front tyre and not the rear tyres, which were the ones in question. After the trial, when this information eventually came to light through the persistence of Mr and Mrs Bland and Mrs Browning, I wrote to the police to ask them to reconsider the case. The response included the following paragraph: "It is possible that the defective tyre was changed immediately on returning from the failed test on 28th October and the vehicle then driven for 3 weeks on legal tyres until its re-test. It is possible someone else drove the vehicle throughout this period. It is possible the additional mileage was driven on a private road or even outside of the United Kingdom". It went on: "The officer himself denies committing any traffic offences and is unable to account for the usage of the vehicle stating that he cannot recall details from 5 years ago."

It beggars belief that anyone could have written that. Even if Mr Chalmers had allowed someone else to drive his car—I think anyone with a Lotus would remember if they had lent it to someone else for a period of weeks—he would still have been responsible for its roadworthiness, or lack of it. We know exactly when Mr Chalmers had his tyre changed, and it was not immediately after the failed MOT, but rather 22 days later, on the very same day as it was retested. As a police traffic officer, how could Mr Chalmers not have known that he was driving illegally? As for the suggestion that it could have been driven on private roads for 455 miles, or even taken abroad without Mr Chalmers remembering it, those comments are so incredible that they would have been laughed out of court. The police investigation discovered none of this and now that this evidence has been presented to them, they still feel they cannot reopen the case.

Chalmers still went about his work, stopping and no doubt charging people for this same offence. His Lotus was replaced by a Porsche, and no doubt his insurance company, Elephant, believed him when he said he was a responsible driver. He has put behind him the accident that resulted in Luke's untimely death and Ben's lasting injuries. He is free to get on with his life.

In the conditions that night, with tyres in perfect condition, the accident might of course still have happened. However, what remains for Mr and Mrs Bland and Mrs Browning is a searing sense that justice has not been done. Justice was not blind, as it seems to have been applied differently to a police officer than it would have been to any other member of the public. A police officer gave partial evidence in a court of law, with no action taken against him.

Four things should happen now. Sussex police should review again the civil case to consider prosecuting Mr Chalmers, or they must explain how they can still have confidence in Mr Chalmers as a serving officer. The Home Secretary should set clear rules for how potential crimes by police officers are investigated to ensure that they are treated no more lightly than crimes by members of the public. Mr Chalmers' insurance company should instigate its own action to review his insurance claim, and it should award a payment to Mr and Mrs Bland and Mrs Browning for their loss and for the financial costs they have incurred in seeking justice. Also, Mr Chalmers should make a public apology to the families of Luke Bland and Ben Blackford and accept that his policing career is over. He has shown no remorse for what happened on that night or afterwards.

Mr and Mrs Bland have been through every parent's nightmare. The strain and stress on them and their two other children, Josh and Lily, have been overwhelming. Together with Mrs Browning, they are three of the most courageous people I have ever met, but they have been ill served by the police and by the justice system. After more than five years, it is time to bring this matter to an end, so that their grieving for their much loved son Luke can begin.

*Minister for Policing, Criminal Justice and Victims (Mike Penning):* As an ex-fireman myself who regularly used to attend such instances, my thoughts and prayers are with the families and particularly with Ben. I hope that my hon. Friend is wrong and that Ben makes a partial, if not a full, recovery. As the new Policing Minister, I was very concerned when I saw that this debate was due to take place, so I have taken some time to look into the event. It is not for this House to retry the case. With that in mind, I will try to address some of the facts of the case, then the way that the case should have been treated, and finally the four points that my hon. Friend raised. Even though, as my hon. Friend rightly said, the family have since found a lot of evidence, there is none to suggest that the accident would not have happened anyway. I think everybody accepts that. I am not responsible for the letter. That is a matter for Sussex police.

Sussex police have acknowledged that their procedures could have been improved. That is right and proper. Interestingly, the Independent Police Complaints Commission carried out an investigation into the complaints made by the family about the conduct of the investigation by Sussex police, and I know that there was some concern about whether Sussex police or another force should have carried out that investigation. I shall come back to that in a moment. The IPCC found that although some of the complaints were well founded, there was no misconduct on the part of the officer. The IPCC is, of course, a completely independent body.

The other fact that I should raise at this point is that the gentleman concerned was an off-duty police officer. Had he been on duty, what happened afterwards would have been completely different. I was not at the scene and I do not have some of the facts that my hon. Friend referred to in his comments, so I will stick to what I know and the information that has been passed to me. The IPCC said that the Sussex police investigation of the incident was not conducted thoroughly and effectively, so that part of the complaint referred to by my hon. Friend was upheld. It is important to note that.

The operational independence of the IPCC from the Home Office and from Ministers is an integral part of our system and we should make sure that no Minister intervenes in its working. Nor should we as Ministers intervene in police investigations. At the heart of my hon. Friend's concerns was the investigation of PC Chalmers by his own force. I reiterate that if he had been on duty, the matter may well have been dealt with by another force. In this case, as he was treated as an individual off duty, it was investigated in the same way as a case involving any other member of the public. The fact that he was an off-duty policeman should not, I agree, have precluded Sussex police from investigating the death of Luke Bland and the rest of the incident. The really serious injuries that occurred, in particular to Ben, were taken into consideration when the prosecution decisions were made.

Sussex police's criminal investigation led to the prosecution of PC Chalmers. The IPCC found that the case was investigated thoroughly and effectively by Sussex police. Therefore it would appear that the case was treated with at least as much integrity as an investigation of any other member of the public who had been at the wheel. It would also appear that even though prosecution was withdrawn, it was not because Sussex police's investigation was at fault.

My hon. Friend makes four suggestions. I think I understand all the points that he is trying to make, even if I cannot agree with them at the Dispatch Box today. *The first point*—that Sussex police review again the case—is clearly a matter for the police force. It is not a matter for a Minister or the Home Secretary. I may not be dealing with these points in the same order as my hon. Friend. *The second point* is that the insurers should instigate their own action and review PC Chalmers' claim. That is clearly also a matter for the insurance company. I was at the Department for Transport for many years. Insurance companies tend not to pay out