

## ECtHR - No Damages/Legal Costs for Scottish Prisoners Denied Vote BBC News

The European Court of Human Rights has ruled that the UK has again breached prisoners' rights by failing to give them the vote. But it refused to award damages to the 10 inmates bringing the action, saying the ruling in their favour was enough. The group, who are prisoners in Scottish jails, argued the UK's ban on them voting in the 2009 European elections breached their human rights. In the latest case, the court - which oversees human rights law that the UK signed up to - had been asked to award damages to the inmates because of the UK's repeated failure over almost a decade to end the blanket ban on voting. But although the court said the inmates, who include sex offenders, had suffered a breach of their rights, they were not entitled to any compensation. In their ruling, judges said that in the vast majority of cases relating to prisoners' votes they had had "expressly declined" to order governments to make payments to convicted criminals. "As in those cases, in the present case the court concludes that the finding of a violation constitutes sufficient just satisfaction for any non-pecuniary damage sustained by the applicants," said the latest ruling. They also refused to order the British government to pay the inmates' legal costs. In a dissenting ruling, one of the judges complained the case should never have come before the court - because it had repeatedly demonstrated that it had no settled view over votes for prisoners - making it even harder for individual governments to work out what to do to avoid further claims.

## Burned Informant Kester David - Mother Slams Met 'Cover Up'

The mother of a man whose burned body was found under a London railway arch has accused the police of covering up his death because he was an informant. Kester David's body was discovered in Broomfield Lane, Palmers Green, in 2010. His family believe he was killed for working as a police informant and have claimed police failed to look at CCTV or speak to witnesses promptly. His mother, who wanted to remain anonymous, said: "It was all about covering up the fact he was a police informant and he was working for the police."

The IPCC has urged Scotland Yard to apologise for its handling of the case. The initial investigation by Scotland Yard into Mr Kester's death concluded he committed suicide. A year later an internal investigation, led by inspector Brian Casson, found a "catalogue of errors" and a "failing in duty" as full CCTV and mobile phone records were not checked and witnesses were not interviewed. Alex Bushill, who saw a leaked Independent Police Complaints Commission report, said: "It details some of the most basic police work that wasn't done or was done very badly. a failure to view all the CCTV footage, wrongly reporting the results of DNA tests or DNA tests that had been lost, and telling the coroner even the wrong time of death. "

**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,

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## MOJUK: Newsletter 'Inside Out' No 490 (14/08/2014)

### Habib Ullah Family: Outcry as CPS Declines to Charge Police Officers

The family of a man who died after being forced to the ground during a routine stop-and-search by police six years ago has reacted furiously after learning that nobody would be charged over his death and an alleged subsequent cover-up. Five officers and a solicitor were told today that they would not face a criminal trial after their initial accounts were changed at a meeting the morning after the death of father-of-three Habib Ullah, 39, in July 2008 after a routine search for drugs in a car park in High Wycombe in July 2008. He was suspected of putting a drugs package into his mouth and was slapped on the back by one officer before he was brought to the ground face-down. His heart stopped beating and a pathologist later said his death was caused by multiple factors.

Despite the decision by the CPS, the officers from Thames Valley police will face a disciplinary hearing for gross misconduct after an embarrassing about-turn by the police watchdog, the Independent Police Complaints Commission (IPCC). It had found in 2009 that the officers had no case to answer after a botched investigation into what happened on the night.

Nasrit Mahmood, the dead man's sister, said: "There was so much evidence that something has gone wrong. We're not happy with the decision but we don't have any faith in the CPS or the IPCC. I thought they'd make up some Jackanory story. A healthy man dies at the hands of the police within minutes. Then at the inquest they are caught out withholding evidence in front of everyone including the judge and jury. We will keep on fighting, whatever route that takes, even if it takes 10 or 20 years."

The CPS considered potential charges including manslaughter and perverting the course of justice. "Since there is insufficient evidence to give rise to a realistic prospect of convicting any person of any criminal offence arising from the circumstances of Mr Ullah's death, we have advised the IPCC that no further criminal action should be taken," it said.

The case raises serious questions about the willingness of the watchdog to confront police officers after a letter from a former senior official of the Independent Police Complaints Commission expressed concerns that the "barriers" would go up if they treated the officers like suspects in a suspicious death. The letter from deputy chairwoman Deborah Glass, who has now left the organisation, said the decision to serve officers with warning disciplinary notices "will also go around the force like wildfire with the real possibility that in future incidents, officers will be much more reluctant to cooperate with our investigators". It has emerged that an investigator did not turn up on the night of Mr Ullah's death and was unaware that statements were changed until an inquest in 2010 when the family's legal team uncovered the discrepancies.

The family has been sent an 80-page letter by the Crown Prosecution Service explaining its decision not to charge based on a second investigation by the police watchdog. The letter revealed that an IPCC investigator had asked for the officers to be separated and video statements taken the day after Mr Ullah's death - but the request was refused by the officers' representative from the Police Federation because they were not considered suspects in suspicious death.

The CPS said that there was no "causal link" between the restraint and Mr Ullah's death, and that the changing of the statements was intended to mislead. The five police officers will face an inter-

nal disciplinary inquiry and the solicitor, who has not been named, has been reported to the industry regulator for possible misconduct charges. IPCC Associate Commissioner Guido Liguori said: "This has been a complex investigation which as we have said has taken an unbearably long time for Mr Ullah's family." The Home Secretary Theresa May has announced a review of the police disciplinary process and introduced measures to strengthen the powers of the IPCC in the light of cases taken on by the watchdog that failed to expose police wrongdoing. *Paul Peachey, Independent*

### **Tommy Sheridan's Perjury Conviction to Scottish CCRC** *BBC News*

The former Scottish Socialist Party leader and Solidarity MSP was awarded £200,000 in damages after winning a defamation case against the News of the World in 2006. He was later jailed for three years for committing perjury during the case. Mr Sheridan, 50, has claimed new evidence will prove he was the victim of a "criminal conspiracy".

The SCCRC has now agreed to review the conviction and the case has been allocated to a senior legal officer for investigation. It is anticipated the investigation will take several months to complete. The SCCRC will then decide whether the case is to be referred to the High Court for a full appeal hearing to take place.

Mr Sheridan said: "It has taken a frustratingly long time to progress but at last the SCCRC has the files and my appeal against conviction has been assessed and considered worthy of more detailed analysis. I am absolutely confident my unsafe conviction will eventually be quashed and my name will be cleared."

His solicitor Gordon Dangerfield added: "I'm very pleased at the commission's very prompt decision to review the conviction. This is obviously an important step forward in the process of having Tommy's conviction appealed and overturned. I consider that the evidence we have gathered in support of the appeal is utterly compelling. In my view, that evidence demonstrates very clearly that the conviction was a shocking miscarriage of justice, and I'm very much looking forward to the commission's own independent investigation and decision."

Mr Sheridan's perjury conviction stems from his defamation case against the News of the World in 2006. The now defunct tabloid printed allegations about his private life, which included claims that he visited a swingers' club and cheated on his wife. He was awarded £200,000 in damages after winning the case against the newspaper at the Court of Session in Edinburgh. However, in 2010 he was found guilty of perjury after a trial at the High Court in Glasgow. Mr Sheridan - who was freed from prison after serving just over a year of his three-year sentence - has always maintained his innocence. In 2011, he was refused leave to appeal against the perjury conviction. His legal team wanted to argue that he had been denied a fair trial because of the amount of publicity generated before it got under way, but senior judges found the case was "not arguable".

### **Ross MacPherson - Appeal for Information**

I've currently got several complaints being investigated in respect of Sussex Police breaching the 'Police and Criminal Evidence Act 1984 (PACE). Which include undercover officers 'Not producing' warrant cards. Illegal stop & searches, with out an appropriate adult present, even though its on the Police National Computer, that I am a vulnerable adult. At my trial one officer said I am a priority target and every time the police see me I will be stopped. What I would like to know is if anyone knows of similar cases that been taken to court and compensation awarded, if anyone has any information or advice, please write to me:

Ross MacPherson A6791AD: HMP Belmarsh, Western Way, Thamesmead, SE28 0EB

With no confirmation of his return to Wayland prison, and having received largely dismissive replies to his complaints, Mr T, in desperation, wrote a letter to the prisoner newspaper, Inside Time, highlighting his treatment at Wandsworth prison: "I am registered disabled with secondary progressive MS. The doctor says I should be located on the ground floor and that my mobility should be actively encouraged. HMP Wandsworth's answer to this is to keep me locked up for 23 hours a day on the second floor and have my food brought to my cell. I get no activity; they just lock me up and may as well throw away the key. The governors and staff here make no effort at all to find disabled prisoners a job and they cannot get a cell on the ground floor as these are reserved for workers. Surely this is discrimination?"

Within days of the publication of this letter, Mr T was taken back to Wayland prison, where he then instructed Benjamin Burrows, a solicitor in the prison law team at Leigh Day. A claim was then brought against Ministry of Justice under the Equality Act 2010 arguing that his treatment at Wandsworth amounted to unlawful disability discrimination. Shortly after the claim was brought, the Ministry of Justice agreed to pay him substantial compensation in settlement of his claim. In commenting on the settlement, Mr Burrows, stated that: "MS is a clearly recognisable disability and Mr T has clearly recognisable needs as a result. As soon as Wandsworth prison became aware that those needs were not being met, they should have taken immediate steps to put him in a cell which could meet his needs or have taken immediate steps to transport him back to Wayland prison. What they couldn't do is what they did: to leave him languishing. Unfortunately, Mr T's case demonstrated a fundamental disregard for their duties to disabled prisoners, as well as a general lack of compassion." Mr T's claim was funded by the Legal Aid Agency, and he was represented by Alasdair Henderson, a barrister at 1 Crown Office Row.

### **Police pay £17,000 Damages for Unlawful Child Strip Search** *Bhatt Murphy Solicitors*

South Wales Police have apologised and paid £17,000 in damages to a 12-year old girl strip searched without her mother or an appropriate adult being present. Her mother was also strip searched and received £1,000 in damages. Alice Hardy of Bhatt Murphy and Martha Spurrier of Doughty Street Chambers acted for the Claimants. The girl and her mother told officers repeatedly that she was only 12 years old but were ignored. The Court described the officers' behaviour as arrogant. The girl suffered a psychiatric injury as a result of her experience.

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

Inspection 31 March – 11 April 2014 by HMCIP, published 12/08/14: Preston is a local prison in the true sense; it serves the local courts and holds remanded or recently convicted men prior to their move onto training prisons in the locality. The prison will be ideally placed to adopt to its proposed resettlement role in addition to continuing its current function, as new through-the-gate approaches to reducing re-offending and rehabilitation are rolled out over the coming years.

Inspectors were concerned to find that: - significantly more prisoners than in similar prisons reported feeling unsafe and victimised; - there were high rates of drug availability and work to tackle the supply was limited; - and ineffective arrangements to address delinquent or anti-social behaviour were not helping - prisoners were less positive than on previous inspections about the quality of relationships with staff and inspectors found some examples where staff were dismissive; and work with prisoners' families and visits arrangements needed to improve. - some units were old and tired and cells were poor, and Preston remained an over-crowded prison - outcomes for minority groups were still too inconsistent - Inspectors made 75 recommendations

always wore a bow tie for the job as a sign of "respect" and once claimed he "never felt a moment's remorse" for his executions. Thirty-five miles away in Walton Jail, Liverpool, Allen, 21, shouted "Jesus" as he was led to the gallows by his executioner Robert Stewart. Former prison officer George Donaldson who witnessed the execution, told the makers of the ITV documentary *Executed*: "At the last minute he seemed to make some sort of effort to throw himself, but he didn't get the chance. The lever dropped, the door opened and down he went. It was all over."

From murder to double execution had taken just 18 weeks. It was too late for Evans and Allen, but an abolitionist campaign that dated at least as far back as the formation of the National Council for the Abolition of the Death Penalty (NCADP), in 1923 – after the dubious execution of Edith Thompson – was beginning to bear fruit. It was fuelled by cases like that of Derek Bentley, a 19-year-old with a mental age of 11 who was hanged in 1953 for the murder of a policeman, despite not having fired the fatal shot. The officer had told Bentley's accomplice to hand over the gun, and the teenager had uttered the highly ambiguous phrase: "Let him have it."

Also in 1953 it was discovered that the Rillington Place serial killer John Christie had been the real murderer of Beryl Evans and her baby daughter Geraldine. Mrs Evans' husband Timothy had been wrongly hanged in 1950. Mr Evans' sister Maureen Westlake told the *Executed* documentary, to be broadcast on Tuesday night: "The last time I saw him, he did look like a 10-year-old. His face was all pale. He waved and said, 'cheerio'. It's the Government that murdered Tim. Not killed him. Murdered him." In January this year, a poll found that 54 per cent of British people want the return of the death penalty.

#### **Prisoner Wins Compensation for Discrimination Suffered at HMP Wandsworth**

A prisoner with Multiple Sclerosis ("MS") has received substantial compensation in settlement of his claim for discrimination relating to his time at Wandsworth prison, in London. The former prisoner, known as "Mr T", has suffered from MS for many years. MS is a degenerative neurological condition which affects nerves in the brain and spinal cord. In Mr T's case, his MS causes him weakness, numbness and spasticity of his legs and arms, as well as weakness of his bladder. This means that Mr T has difficulties with walking and balance and with lifting and gripping, as well as needing to urinate more frequently. Therefore, because of his MS, Mr T needs access to specific aids and facilities to help alleviate these difficulties, including ground floor accommodation and adapted toilets and showers.

Mr T was serving his prison sentence at Wayland prison, in Norfolk, but, in November 2012, was taken to Southwark Crown Court, in London, to attend a hearing. Because of his MS, he was taken in specialist transport. The hearing was due to last a day and he was then to be taken back to Wayland prison. However, specialist transport was not available to take him back. Therefore, he was taken to Wandsworth prison instead. Mr T's imprisonment at Wandsworth prison was only supposed to be temporary, but he was not taken back to Wayland prison until March 2013. During his four months at Wandsworth prison, very limited steps were taken to address his MS needs.

Despite repeated requests by the prison doctors, and repeated complaints by himself, Mr T spent the majority of his time at Wandsworth prison in shared cells on the first or second floors of the prison with no lift access and with no adapted toilets or showers. This meant that Mr T was unable to move off his landing and he spent on average 23 out of every 24 hours in his cell, and had to use the wash basin in his cell as a makeshift shower. Furthermore, he had to suffer the indignity of having muscle spasms and difficulty urinating in front of his cell mate.

#### **Lie Detector Tests Introduced to Monitor Released Sex Offenders** *Owen Bowcott, Guardian*

Tests compulsory on high-risk sex offenders let out on licence, as handful of officers trained to operate polygraph machines : Lie detector tests monitoring the behaviour of released sex offenders across England and Wales have begun this week, amid calls for the technology to be used more widely in police investigations. The tests are now compulsory for high-risk sex offenders let out on licence. Seven probation officers and four police officers have completed training to operate polygraph machines that measure changes in pulse, skin conductivity and breathing in order to assess whether individuals are telling the truth. The probation officers and police constables have undergone an 11-week training course coordinated by Don Grubin, professor of forensic psychiatry at Newcastle University. The first tests by probation officers, under supervision, were carried out in London and Leeds on offenders this week; officers will begin operating on their own in the coming months.

The Ministry of Justice's enthusiasm for polygraph machines follows a successful trial report in 2012 which concluded that it "increased the chances that a sexual offender under supervision in the community will reveal information relevant to their management, supervision, treatment, or risk assessment". Convicted sex offenders are being tested every six months; if they fail then they will be subjected to more frequent assessments. "No one can be recalled to prison simply for failing a test," Grubin told the *Guardian*, "but if they make disclosures about breaching the terms of their licence then they can be recalled. There are so many misconceptions about polygraph testing. People say it's not 100% accurate and the error rate is about 10%. Then you make judgments based on that. There are very few tests that are 100% accurate. Polygraphs have a good accuracy rate. Every study has shown marked increases in disclosures."

Hertfordshire and South Yorkshire police are also running separate pilot projects testing suspects accused of downloading indecent images of children. Their lie detector tests are used to assess how thorough the examination of a suspects' computer should be. "The aim is resource management," Grubin said. "If someone is deemed to be low risk, and has not been trying to meet children then their computers are subject to a summary review rather than a full forensic examination which can take up to a year." Part of the risk assessment is through administering a polygraph test; if they pass and make no new admissions then that will influence the police action. "It won't affect any charges," Grubin added, "but it can focus resources on those who are higher risk." Grubin said he has received expressions of interest from other police forces who are interested in lie detectors for investigations and held discussions with those who think it could be useful in the pre-employment screening of those who work with children. The Crown Prosecution Service, the MoJ and police all stress that results of tests will not be used in court as evidence of whether or not a crime has been committed.

CCRC says it has received the results of lie detector tests in applications from those seeking to overturn convictions but cannot take them into consideration because they are not admissible as evidence. Among those who have been tested in the hope of proving their innocence is Jeremy Bamber, who was convicted in 1986 of murdering his adoptive family. The website supporting his campaign for freedom says he "passed emphatically".

Many scientists are sceptical about the effectiveness of polygraph testing. Dr Sile Lane, campaign director at Sense About Science, condemned the introduction of lie detectors. "They are not accurate," she said. "They have been shown time and time again not to be able to detect lies. If they work at all it is as a deterrent effect. It's because someone has been told an untruth that they work. When police forces are using them to make decisions about someone's liberty in the justice system, that's appalling. The Ministry of Justice needs to answer some questions about why they are spending this money."

A report by the British Psychological Society in 2004 concluded that: "The results of better quality research studies demonstrate that while the correct classification of deceivers can sometimes be fairly high, incorrect decisions about who is or is not being deceptive occur at rates that are far from negligible. Use of countermeasures may well result in deceivers not being detected." But while there is resistance to the use of polygraphs in many western European countries, they are now commonly used for police investigations and security vetting in central and eastern European states such as Latvia, Lithuania, Poland, Romania and Slovenia. MI5 is rumoured to have used them in the UK.

Lie detectors are seen as most useful in alleged sex offences for which there are usually no independent witnesses. A solicitor and barrister who recently put a client accused of a sex offence through a polygraph test and sent the results to police has called for them to be available nationally to aid investigations and prevent miscarriages of justice.

Mike Gibbons, a solicitor of Litigaid Law in Southport, who was formerly a police detective in London and Merseyside, and Mark Tomassi, a barrister, said: "My client said the sex had been consensual. He passed a lie detector test with flying colours. In the end he was never charged. "... A person suspected of sexual crime could and should be offered the opportunity to take a lie detector test ... If such a test is sufficiently reliable to protect the public from future offences from those already found by the courts to be guilty, it is but a modest proposal to allow an innocent person at least a chance of persuading a prosecutor to think again."

The use of lie detectors are also popular outside of the field of police investigations. Bruce Burgess, a founder member of the British Polygraphic Association who runs UK Lie Tests, says that suspected infidelity is the most common reason for private customers requesting the tests, which cost £600 or more. "Generally it's to find out whether wives or husbands have been cheating," he explained. "Sometimes it's a text message that has gone the wrong way, or something on Facebook [that triggered suspicion]. "You can ask three questions on one issue. If anyone one fails on one question they fail on it all. It's pass or fail. I stay with them after the test. A lot of them shout at each other." Burgess's firm has even carried out tests for ITV's Jeremy Kyle show where couples have accused each other of infidelity.

Burgess is also frequently asked to test people in relation to allegations of sex abuse. "Sometimes we test victims, sometimes perpetrators. Sometimes it's gone to court. I have given statements to police when people have made admissions after a test. "I don't think it will be used [as evidence] in courts. Even in the United States it's hard to get it in to court. Prosecution, judge and defence all have to agree to accept it. But I think the police should use it as an investigative tool as the they do in the US. It can help police home in on a suspect."

Commenting on the spread of polygraphs, justice minister, Andrew Selous said: "This government is introducing lie detector tests for high risk sexual offenders, as well as satellite tagging to track their movements. We are determined that the UK has one of the toughest regimes in the world for managing sex offenders, to stop reoffending and to protect victims."

#### **Michaella McCollum to be Transferred from Peru Jail to a N. Ireland HMP**

Convicted drug smuggler Michaella McCollum is to be transferred from Peru to a jail in Northern Ireland. McCollum, from Dungannon, County Tyrone, and her accomplice Melissa Reid, from Glasgow, were jailed for six years and eight months in 2013. They admitted trying to smuggle cocaine worth £1.5m from Peru to Spain. The Northern Ireland Prison Service has confirmed the transfer, which could take several months to arrange. *BBC News, 06/08/14*

£23,000 a year and felt "like a ponce" living off his wife, Ruth, who is an actor. However, the judge threw out his case after hearing evidence of the Adams' lifestyle – including several visits to the opera, spa memberships and expensive dental treatments.

Far from struggling to pay the rent as Adams claimed, the court heard that the couple's "identifiable" spending was £97,000 a year – nearly four times the national average. The pair spent £15,000 on flights, hotels and entertainment between August 2009 and September 2013, including a massage at The Dorchester hotel, a visit to The Ivy restaurant and 13 meals at Browns restaurant in Mayfair. Ruth Adams, who recently appeared in *Fings Ain't Wot They Used T'Be* at the Theatre Royal, Stratford East in London, spent £12,044 on dental treatment and £2,500 on special diet food over three months in 2013, the court heard. In June 2010, she bought her former gangster husband a spa membership at a north London country club for £3,850 as a birthday present when he was released from prison. Another £5,351 was frittered away on parking charges and fines.

Striking out Adams' plea of poverty, judge Mrs Justice Nicola Davies said she was "not satisfied that Terry Adams has provided full and frank disclosure to the court" of the assets "which fund his life and that of his wife". The high court decision means Adams faces a legal bill of £5m, including £4.6m in publicly funded defence fees dating back to his conviction in 2007 for plotting to conceal the proceeds of criminal conduct over a six-year period. During the high court hearing, Adams' barrister, Ivan Krolick, said his client had lived his life in a "goldfish bowl" with every aspect pored over by the authorities. Krolick said that Adams was "bitter" that MI5 had bugged his house for 22 months, recording the most intimate moments of his private life.

Nick Price, head of the Crown Prosecution Service's proceeds of crime unit, said: "Through a series of nefarious means, Terry Adams has consistently sought to hide the proceeds of his crimes. However, today's judgment is proof of our determination to see that crime doesn't pay and that those who seek to hide their wealth will be challenged and held to account. Mr Adams argued that he couldn't afford to pay what he owed and yet his lavish lifestyle showed this was not the case."

#### **Fiftieth Anniversary of Last People to be Executed in UK** *Adam Lusher, Independent*

When, at 8: 00 am on 13 August 1964, Peter Allen and Gwynne Evans took a short walk to the gallows to be hanged for murder, the deaths of two hapless petty criminals were little mourned and little noticed. The executions merited only a few lines in a couple of daily newspapers. Everyone expected more hangings would follow. Instead Allen and Evans became the last people to be executed in Britain. Wednesday this week will be the 50th anniversary not just of their deaths, but of a major milestone in the history of British justice. The death penalty for murder was suspended for a trial period the year after they were executed. In 1969 it was abolished altogether by a vote in the House of Commons, which won an overwhelming majority and loud cheers from the public gallery.

So a killing characterised more by incompetent desperation than anything resembling cold-blooded calculation acquired a significance few could have imagined at the time. Needing money to pay off magistrates fines of £10 imposed on them for earlier thefts, the two jobless men had driven to the home of Evans' former workmate John West, 53, in Seaton, Cumbria, to request the loan of "a few quid". Mr West refused to give them any money. His stabbed and battered body was found the next day. Tracing the two suspects was hardly difficult. Evans had left his raincoat at the scene, with a medallion inscribed with his name. Letters from both men's mothers begging the Home Secretary Henry Brooke to grant clemency had no effect.

At Strangeways, Manchester, Evans, 24, was led from his cell by Harry Allen, who

ical will to do so. "It's not for the prisons inspector to say how many people should be in prisons," he says. "But unlike other public services you can control demand. If you want the prison population to rise then your resources to deal with that need to rise as well."

And if you don't increase resources, Mr Hardwick believes the central mission of prisons will be lost. "You need to make rehabilitation the central point of prisons. It's good for the prisoners, it's good for the economy and good for the communities to which they are going back. They [the Government] absolutely know what the problems are but there has to be the will to improve the situation. Independent, 11/08/14

#### **Chris Grayling's Policies 'Responsible for Prisoner Suicides'** *Oliver Wright, Independent*

Overcrowding and staff shortages in England's jails are now so bad that they are directly fuelling a rise in the number of prisoners killing themselves, the Chief Inspector of Prisons warns today. In an interview with The Independent, Nick Hardwick said it was "not credible" for the Government to deny a link between pressures on the prison system and a big increase in the number of self-inflicted deaths. His intervention comes as the Justice Secretary, Chris Grayling, faces increasing criticism over his handling of the prison system, amid claims that jails have become "death traps" as a result of steep budget cuts.

Mr Hardwick said prisoner suicides were "not acceptable in a civilised country" and said that if ministers wanted the prison population to rise then they needed to provide the "resources to deal with that rise as well". His comments come ahead of a report by the Prisons and Probation Ombudsman into self-inflicted deaths of 18- to 24-year-old prisoners following a spate of recent suicides. In the year to March 88 people took their own lives in English and Welsh prisons – a rise from 52 in the previous year. Since January this year 44 people have committed suicide in jail while the number of incidents of self-harm increased by more than 750 in a year to 23,478. Attacks against staff have also increased by 10 per cent.

Mr Hardwick revealed that in one prison he inspected there had been two self-inflicted deaths shortly before they visited and a further two afterwards despite his warning prison management that the institution was "unsafe". There has certainly been deterioration over the last year. Prisons are less safe," he said. "The reasons why any individual who is despairing tips over into a suicide are very diverse," he said. "But if you put together the lack of staffing levels, the overcrowding, the lack of activity, then I don't think it is credible to deny that those are contributory factors." His comments were backed by Frances Crook, chief executive of the Howard League for Penal Reform, who said: "Government policy has led to people dying unnecessarily."

But a Prison Service spokesperson claimed they "always have and we always will ensure there are enough staff to deliver safe and effective prison regimes". "We have a high proportion of people with mental health issues in the prison population, and we are working very hard to understand the recent fluctuations in self-inflicted deaths. Reducing the number of self-inflicted deaths is a key priority."

#### **Gang Boss Ordered to Pay £650,000 of Crime Proceeds** *Josh Halliday, Guardian*

A former gangland boss who frittered away tens of thousands of pounds on Royal Opera House tickets and private health treatments was ordered to pay back £650,000 of his criminal earnings, after a high court judge rejected pleas of poverty. Terry Adams, described in court as the former leader of one of the most notorious crime gangs in the UK claimed that he and his wife were scraping by on £200 a week. He told Mrs Justice Nicola Davies he got by on

#### **HMP Magilligan Prison Rehabilitation Magazine Under Threat**

Inmates at Magilligan Prison have said they would be "distracted" if a rehabilitation programme was taken away from them due to cost-cutting. The Prison Arts Foundation said funding has recently been cut for a magazine called Time In, which prisoners have been writing and publishing themselves. Over 40 prisoners have been involved in the programme. The Northern Ireland Arts Council said funding "ends in March 2015. We indirectly fund the magazine project along with the prison service and the Prison Arts Foundation," an NI Arts Council spokesperson said. They will have to apply for funding again like other projects."

David, who is serving time for fraud and theft, said he deserved a chance at rehabilitation. "I've been in about 43 jails between here, Canada, southern Ireland, Scotland and England, but I've paid for every crime I've done. If somebody can leave here with a better vision that there's more to life other than crime, then surely that's better for society itself. Prison is not only about punishment, it's about gaining skills that you've never had before." Kevin, who is serving time for drug offences, was an aspiring film critic before entering prison. "On the outside I was striving to be a film critic and I've tried to pick that up in here and do film reviews for the magazine. I would be gobsmacked if people thought prisoners shouldn't be involved with these programmes. It's the only way to get people away from reoffending, which is the biggest problem." *BBC News,*

#### **HMP Maghaberry Prisoner Death Inadequate Jail Response**

A watchdog has criticised prison staff in Northern Ireland for their reaction when an inmate, who later died, was found "unresponsive" in his cell. David Brown became ill in HMP Maghaberry in December 2012 and died later in hospital from a brain haemorrhage. The Prisoner Ombudsman (PS) said staff left him unattended for five minutes in an unresponsive state and did not raise the alarm immediately the response of the Prison Service was "inadequate". The report by Tom McGonigle also found that a nurse treating the inmate was not made aware that it was an emergency situation and other prisoners were not locked in their cells during the incident. However, Mr McGonigle, said: "While some things could have been done better, a key finding of this independent investigation is that there was no possibility to achieve an alternative outcome for Mr Brown." The Prisoner Ombudsman's office is required to investigate all deaths in custody in Northern Ireland, including deaths due to natural causes. The report into David Brown's death said painkilling drugs were found in the 46-year-old's system during toxicology tests, but added that the drugs had been prescribed to him. It said the medication was found at "concentrations that lay within their respective therapeutic ranges". "This is important as there was speculation about a white powdery substance that was found around Mr Brown's nose at the time of his death," a statement from the ombudsman said. Despite criticising prison staff for their immediate reaction to finding the prisoner unconscious in his cell, the report did not find fault with the inmate's medical management during his time in the jail. A clinical reviewer who investigated the case "did not feel that an opportunity to achieve an earlier diagnosis existed, or that there would have been a possibility to achieve an alternative outcome for Mr Brown".

The Ombudsman's report into the handling of the prison's case identified four matters that required improvement. Two of the four areas related to record-keeping and post-incident support for staff. The need for improvement in these two areas had already been highlighted to the prison authorities and the South-Eastern Health and Social Care Trust. The Northern Ireland Prison Service (NIPS) has accepted the recommendations and they have already been implemented. The health trust has also accepted their recommendation, and told the ombudsman it will be considered at a "Lessons Learned" forum. *BBC News, 06/08/14*

### Woman Who Tried to Trick Strangers to Rape Colleague Jailed

A woman who used sex chatrooms to try to trick strangers into raping a former work colleague has been jailed for six years. Joanne Berry, 30, posed as the woman online and invited men to act out violent rape fantasies and role play with her. A judge said Berry may have held the victim responsible for losing her temporary job after Berry displayed "increasingly erratic behaviour" at work. After Berry disclosed her ex-colleague's address online, one unwitting man tried to barge his way in to the woman's home to act out the rape. When the man suddenly realised they had both been set up by someone, he aborted the plan, Maidstone crown court in Kent heard. Judge David Griffith-Jones QC said Berry had developed an "irrational vendetta" against the victim who had only shown kindness towards her.

Berry, of Grove Park, south-east London, was convicted in May of putting a person in fear of violence in 2012. She was also convicted of committing an assault with the intention of committing a sexual offence, common assault and attempting to cause a person to engage in sexual activity without consent. The court heard that the victim initially bore Berry's "increasingly frenetic and bizarre" behaviour with "a degree of fortitude". But the judge told Berry: "Things got to a point where (the victim) felt the need to keep you at arm's length, moreover because of your increasingly erratic behaviour. Your temporary work placement was terminated. It's now quite clear that, irrationally, you took exception to being rebuffed by (the victim). It may be that you held her responsible for the loss of your temporary employment."

Aggrieved, Berry resolved to exact some form of "revenge or retribution". The judge went on: "Thus, it was, you embarked on a bizarre series of events. You carried out some internet research and discovered a web-based chatline facility on which you would make contact with individuals with particular sexual and other interests. Through that facility, you made contact with a particular individual – 'DH' – who gave evidence during the trial." Berry contacted him over a period of time and pretended that she enjoyed sex and engaging in role play. And eventually she persuaded him to come to "her" home, knock on the door and effectively rape her. The judge said: "During this you didn't reveal your true identity and the address that you provided as your own was in fact (the victim's) home address." He added: "He burst in intent on putting the plan between you and him into operation. Fortunately, he swiftly realised that something was amiss, so, after his initial aggressive entry, he aborted the plan."

### Rise of the Secret Trial: Closed Material Procedures one Year on *Lawrence McNamara*

Justice Secretary Chris Grayling has reported on how often closed material proceedings (CMPs) have been sought under the Justice and Security Act 2013 (JSA), as he is required to do annually under the Act. As the first and only official consolidated presentation of how the new CMP regime is being used, the two-page written ministerial statement warrants close attention. The Secretary of State's report provides only numbers. In the Bingham Centre's Review of the First Report by the Secretary of State (SS), we have tried to match cases to those numbers and, when read in light of the cases, have found good reasons to be concerned about the difficulty of verifying the accuracy of the report, the ways that CMPs are being used, and the adequacy of the reporting requirements.

What are the reporting requirements? Section 12 of the JSA requires the SS to make an annual report stating how often in the preceding 12 months applications for section 6 declarations for CMPs have been made, granted and revoked, and how many of the associated final judgments are closed judgments and how many are not closed. Section 12(3) states that the report may also include other information as the Secretary of State deems appropriate.

### Nick Hardwick: 'You Need to Make Rehabilitation the Central Point

"Bear in mind whenever you see an official photograph of a prison cell they seem really enormous," he says. "But really they're not. You can practically touch both walls. One person eats their meals on the table the other has to eat it on the bottom bunk next to the toilet. And you never see that properly in the pictures." Mr Hardwick has been the Chief Inspector of Prisons for four years now in a role that, in one form or another, has existed in England since the late-18th century when the prison reformer John Howard first published *The State of the Prisons* in 1777. In that book, Howard described Bridewell Prison in Abingdon in the following way: "Two dirty day-rooms; and three offensive night-rooms: That for men eight feet square: one of the women's, nine by eight: the straw, worn to dust, swarmed with vermin."

Things have undoubtedly improved. But it is hard when talking to Mr Hardwick not to be struck by a similar type language. "Prisoners are sometimes being locked in those cells for 23 hours a day," he says. "They can't get out and do the basic domestics like to have a shower or make a phone call or take part in work or the rehabilitation, which is critical if they are not going to come back. Unlike some public sector inspectorates that have powers to enforce change on the institutions they inspect, Mr Hardwick relies on the bully pulpit of his inspection reports. And recently these have been painting an increasingly bleak picture of a prison service in crisis: facing the perfect storm of rising prisoner numbers, staff shortages and a lack of meaningful activity inside that goes with that.

Mr Hardwick describes it as the Swiss cheese theory of disasters: "For a plane to crash you have to have 10 things going wrong simultaneously. The holes in the cheese need to line up. The problem in prisons now is that you still need a number of things to go wrong simultaneously but not as many things as there used to be. You have less resilience in the system." Mr Hardwick does not seem, by nature, to be an alarmist. He comes across as a decent and compassionate man who understands the need for prisons in society – but also recognises that they should not just be places of punishment alone. Or, as he says: "One of my predecessors said you should be sent to prison as punishment not for punishment."

He sees the role of his inspectorate as being to shine a light on what goes on inside prisons – because it is the one kind of state institution that cannot get "public" scrutiny. "People in prisons are uniquely vulnerable," he says. "There is a power imbalance between the prisoner and the jailer. If I am a warder and you are a prisoner I can use physical force on you. But also you are dependent on me for absolutely every aspect of your life. If you need a toilet roll I have to agree to give it to you. If you want clean pants I have to decide to give them to you. If you want to find out about your sentence I have to agree to that. There is that huge power imbalance. It takes place behind close walls so no one knows from outside what's going on. And if you do complain – well, you're a prisoner, so who's going to believe you?"

His description of the first prison he visited underlines this. "I still have memories of it," he says. "I remember people queuing for their meals and there were a large group of big muscled guys who had obviously spent a lot of time in the gym who barged their way to the front of the queue scowling at people and coming away with plates piled high with food – while everybody else who was a bit weedier – had to make do with what was left. And I was surprised by the extent to which the prison officers there were just backing off. No one was intervening at all."

Over the last four years he has seen good things and bad things. But a string of his recent reports have been particularly critical – much to the irritation of ministers. Mr Hardwick is unrepentant. He sees his job as calling things as he sees them and he sees things getting worse.

And he's clear that prison overcrowding is an issue that can be tackled if there is the polit-

original police file dating from a first complaint in 1998 has gone missing and the teenager's grandmother, who may have been a key witness in the case, had died before it went to trial.

A Criminal Case Review Commission spokesman said Mr Joshi's submission had been through an initial inquiry. The case needs to be allocated to a case review." In representations sent to the review seen by The Argus, Mr Joshi's solicitors argue his conviction highlights the prejudice that exists in respect of child sexual abuse which creates difficulties for preserving the right to a fair trial. The legal papers state that: "[Mr Joshi] had over the years been involved with young people and no allegations of any impropriety on his part has ever been made from anywhere in the world. However, he finds himself convicted of serious sexual offences against one individual, whose evidence before the jury was inconsistent, unreliable and where he fabricated his evidence, admitting to telling lies." *Neil Vowles, The Argus*

### **Fresh Effort to Secure Pardon for Scotswoman Convicted of Witchcraft**

Campaigners are launching new efforts to have the last woman in Britain imprisoned under the Witchcraft Act pardoned. Helen Duncan, from Callander, near Stirling, was convicted at London's Old Bailey under the Witchcraft Act in 1944 after she revealed Second World War military secrets during a seance. The medium was arrested in Portsmouth after holding a seance in 1941 in which she claimed to be contacted by a dead sailor from HMS Barham. The battleship had sunk after being torpedoed off the coast of Egypt just days before - but news of its sinking was not officially revealed to the public by the military until 1942. Miss Duncan was sentenced to nine months in prison after being found guilty under section 4 of the Witchcraft Act 1735, but campaigners say she was wrongly convicted.

Former lawyer Graham Hewitt, who says he is acting on behalf of Miss Duncan's grandchildren, said he would be calling for a new review of the case. Mr Hewitt, assistant general secretary of the Spiritualists' National Union, said he had identified 96 mistakes made in the original trial. Previous efforts to clear Miss Duncan's name have been unsuccessful, with the Scottish Government rejecting a petition to pardon her in 2008. Attempts to open a judicial review into the case also failed due to a lack of new evidence. A spokesman for the Scottish Criminal Cases Review Commission said: "If Mr Hewitt wishes to send a fresh application to the commission then he is more than welcome to do so." *Scottish Herald, 09/08/14*

### **'Pit Bull Terrier' Dies After Being Tasered by Police**

*BBC News, 110814*

A dog thought to be a pit bull terrier which attacked another dog and its owner has died after being Tasered by police. Leicestershire Police said it was necessary for its firearms officers to deploy the Taser to prevent further injuries. They were called to Braunstone Town at about 19:05 BST on Sunday. The injured owner received puncture wounds to his legs and was taken to hospital. Police said they could not be sure what breed the dead dog was but it was suspected to be a pit bull terrier type. The dog it attacked, thought to be an Alsatian, was seriously injured and taken to a veterinary practice

Police said the dog could have attacked its officers or members of the public if it had not been stopped. "In the interests of public safety, firearms officers were deployed to the scene. On arrival the attacking dog continued to be aggressive and attack the dog and its owner." Police have asked for anyone with information about the attack to contact them. The pit bull's owner was not thought to have been with it at the time of the attack. Police said the owner may be arrested and charged with criminal offences.

What was reported? The report was published on 22 July 2014, covering the period 25 June 2013 (when the JSA came into force) to 24 June 2014. It took the form of a table accompanied by two footnotes and, excluding categories it reported that: Number of times the Secretary of State has applied for a section 6 declaration that a CMP application may be made: 5 (\*) Number of those applications granted (i.e., the number of declarations that a CMP application may be made): 2 (\*\*) Number of final judgments made (regarding the application for a declaration) that are closed judgments: 1 Number of final judgments made (regarding the application for a declaration) that are not closed judgments: 1 (\*) Two applications each covered two claimants; one application covered five claimants; and the remaining two applications each covered one claimant. (\*\*) One declaration covered two claimants; one declaration covered one claimant; and the remaining three declarations are outstanding (within the timeframe of this report).

This tells us that (to 24 June 2014) five applications had been made and, of those, two were granted and decisions had yet to be made in the remaining three. It tells us that there was one open final judgment and one closed final judgment. Presumably, these must relate to the declaration applications that have been granted. Helpfully, and presumably included pursuant to s 12(3), the Secretary of State has provided a limited breakdown showing about the number of claimants affected.

What cases does the report refer to? It is not that easy to tell. Five applications for a declaration are readily identifiable. The first three are straightforward. CF & Mohamed v Secretary of State for the Home Department [2013] EWHC 3402 (QB) McGartland and another v Attorney General [2014] EWHC 2248 (QB). R (in the application of Sarkandi and others) v Secretary of State for Foreign and Commonwealth Affairs [2014] EWHC 2359 (Admin) Youssef v Secretary of State for Foreign and Commonwealth Affairs [2013] EWCA Civ 1302

This appeal against dismissal of a claim for judicial review of a decision to include the claimant on a sanctions list is a little more complex. It is beyond doubt that an application for a section 6 declaration was made in this case: the Court of Appeal stated at paragraph 44 that 'on 18 July [2013] an application was issued under s 6(1) of the Act for a declaration.' However, the application for a declaration was not considered as the appeal failed on other grounds. Certainly, however, an application was made and it should be included in the Secretary of State's report. Terence McCafferty v Secretary of State for Northern Ireland (2012 No 360). Although we have identified five cases where an application for a declaration was made, can we be sure these are these the five applications to which the Secretary of State is referring in the report? It is difficult to know because, matching them against further information in the report about the declarations that were made, the cases above cannot be reconciled with the numbers in the report.

The section 6 applications for a declaration that were granted. The report states that two applications for a declaration were granted, one of which covered two claimants and the other covered one claimant. Three of the five applications must surely be those in Sarkandi (five claimants), CF & Mohamed (two claimants) and McGartland (two claimants). A declaration was granted in CF & Mohamed, which would be the declaration which affected two claimants.

The first must be CF & Mohamed, which affected two claimants. What of the other two applications? We are looking for: An application with one claimant, which was outstanding at 24 June. This should be McCafferty. It looks like it cannot be Youssef, as that appeared to have been finalised. An application with one claimant, where a declaration was made by 24 June. It appears it cannot be Youssef (as there was no declaration made). It is possible that was McCafferty, though it seems very unlikely as the application was made on 20 June and so at 24 June it would seem that it must have been outstanding).

We have been unable to locate a further case with a single claimant the Secretary of State made a successful application, and we have been unable to match to the reported data the cases that we have located. As such, although the first five cases we have considered look like they warrant a place in the Secretary of State's report as application that have been made, we are not confident that those are in fact the cases with the five applications reported by the Secretary of State. When trying to match the judgments against the cases, we again struggle to reconcile the figures. The open and closed final judgments

The Secretary of State's report states that two final judgments were issued which decided section 6 declarations: one closed and one not closed. In CF & Mohamed there was an open final judgment on 7 November 2013 and an accompanying closed final judgment. The case alone could account for the both figures in the report but there is a complicating factor. The Act defines a closed judgment as 'one that is not made available, or fully available to the public.' Arguably, the decision could thus be counted in the report solely as a closed final judgment.

In Youssef there was an open judgment which, although not a final judgment in the sense that the application for a declaration was granted or refused, is still a final judgment in so far as it appears to be the end of the matter as regards the section 6 application. Either way, it seems uncontroversial to state that the outcome in Youssef should fall within the kind of further information that under section 12(3) the Secretary of State should deem appropriate to provide. However, not having been able to establish what the single-claimant case was where an application for a declaration was granted, it is difficult to know how that missing case fits into the judgment profiles.

The implications of the report. The section 12 reporting requirements do not ensure enough information will be provided so that the public can be adequately informed about the occasions when CMPs are sought and why declarations are made or not made. Subject to any secrecy requirements imposed by the courts or unless the fact of identifying the cases would imperil national security, Parliament should require that the Secretary of State's report identify the cases, the dates on which applications were made, and the judgments that determined proceedings. This is vitally important as a matter of democratic accountability, especially because the cases where CMPs have been or almost certainly will be sought often engage the behaviour of governments and the adequacy of oversight mechanisms.

Secondly, as the analysis of the cases against the data shows, we do not know the full substance of what happened in the first year. It may be that there are cases in the public domain which we have not located or there may be cases with some further secrecy attached which cannot be identified. Either way, we cannot tell whether or not the report is accurate. Someone else may be able to make the numbers add up – we very much hope someone will – but we have been unable to. Whatever the true position, the report does not provide enough information for an observer to get an adequate picture of what has happened this year. That is worrying. It would be helpful if the Secretary of State was to identify the cases to which the report refers.

Thirdly, the Ministry of Justice has stated that the powers have been invoked 'sparingly' but that is not an appropriate way to characterise their use. Sparingly is a relative concept. It suggests sparingly in relation to the number of occasions when section 6 declarations could have been sought. But, of course, no evidence is provided in that regard. We do not know whether they have been sought at every turn or only sometimes. While it is a small number of cases, the early indications are that CMPs will be deployed in a very, very wide range of circumstances.

This is apparent from the kinds of cases where the government has thought a section 6 declaration should be sought. They include claims brought by non-British citizens abroad and by British

### **Leeds Police Officers Face Misconduct Probe After Death in Custody**

Adam Rice, 46, was taken to the custody suite at the city's new multi-million pound headquarters – opened in April – after his arrest on May 11. He was found unresponsive when checked in his cell at 7am the following day. Despite attempts to resuscitate him, he was confirmed dead around 45 minutes later. The IPCC, which is investigating, has now announced that three officers are facing questions over their conduct leading up to Mr Rice's death. A spokeswoman said: "IPCC investigators have now served a misconduct notice on one police officer, and gross misconduct staff notices on two detention officers advising them that their conduct is subject to investigation. Interviews will take place in the near future." She added that the results of a post mortem examination carried out on May 13 were inconclusive and investigators are waiting for further medical reports. CCTV from the custody suite which was seized after Mr Rice's death has been examined by IPCC investigators, and a number of witness statements have also been obtained to assist the investigation." An inquest was opened and adjourned at Wakefield Coroner's Court on Thursday, May 22. West Yorkshire Police declined to comment while the IPCC's investigation was ongoing.

### **DPG Client Wins Compensation for Unlawful use of Terrorism Act Powers by Police**

A Deighton Pierce Glynn (DPG) client has won an undisclosed settlement from two police forces after he was wrongly detained and handcuffed under Terrorism Act powers. The incident took place on 14/09/10 when Mr Gulamhussein took a train from Kings Cross for work. Mr Gulamhussein was incorrectly told that his ticket was not valid for the journey and asked to pay a replacement fare, he did. Mr Gulamhussein wanted to make a complaint as he was told when purchasing the ticket at the station that it would be valid for his journey. Police on the train became involved but refused to provide their details to Mr Gulamhussein who took a photograph of the officers because of their refusal to provide their badge numbers and identity. His phone was confiscated and the photos deleted. The officers then purported to detain him under S.44 of the Terrorism Act when they had no such authority to do so. Mr Gulamhussein was escorted from the train and handcuffed. He was later released without charge.

A complaint was made against both forces involved and the IPCC upheld the complaint and found that the police had acted unlawfully in detaining Mr Gulamhussein under Terrorism Act powers. After 4 years a settlement has finally been reached with regard to his civil claim.

### **Uday Joshi Former Cricket Star to Challenge Teen Sex Conviction**

A former Sussex cricket star is challenging his conviction for molesting a teenage fan in 1979. Former county batsman Uday Joshi was jailed for six years in 2012 for sexually abusing a 13-year-old Ulster boy. An application against the conviction has been lodged with the Criminal Cases Review Commission and Mr Joshi's lawyers have been told an investigating officer will be put on his case in the next two months.

Belfast Crown Court were told in 2012 that the 69-year-old, who played 88 times for Sussex after arriving on a trial from India in 1969, used cricket to get closer to the boy by taking him to Edgbaston and regaling him with tales of playing with England legends Tony Greig and Geoff Boycott. Jurors, who convicted him on a majority verdict, were told that Mr Joshi twice had sexual relations with the boy in the home of the youngster's grandmother when Mr Joshi was coaching at a cricket club.

Private Eye reported this week that Mr Joshi's solicitors have a dossier highlighting new evidence that "undermines" the case. Doubts were raised over the conviction because the



### **News From Prisoners Advice Service (PAS)**

PAS's Community Care Caseworker represented an elderly prisoner (B) who had suffered from a stroke. He was unable to care for himself or communicate easily with other prisoners - other prisoners had to feed him, wash him and generally care for him at a basic level.

PAS commissioned an independent care report for the prisoner, which backed up the obvious conclusion that the prison should be providing a carer to carry out these basic services for the elderly prisoner; within a week of the report, a carer was being provided three times a day to feed, wash and care for B. The threat of legal action worked. This was just the first stage however. A medical prognosis revealed that B had only a matter of days and weeks to live, and so the Community Care Caseworker began a compassionate release application on his behalf. But for this he would require supported nursing accommodation.

Despite the obvious desperation of B's condition, the Secretary of State did not deem the situation urgent due to the absence of suitable release accommodation. Yet the Primary Care Trust and Local Authority refused to organise suitable accommodation as the prisoner had not been granted release ~ an absurd Catch-22 situation that is sadly very frequent. PAS launched a legal challenge to the Secretary of State. Eventually the local authority agreed to provide the requisite services, in turn allowing a successful application for compassionate release, two weeks following the prognosis. As a result, B was released and transferred to London, where he was able to spend with his family what sadly proved to be the last few weeks of his life.

### **Resettlement Leave**

A category D prisoner with a 16-year sentence had progressed to open conditions, but as a result of a consecutive sentence imposed upon him due to non-payment of a confiscation order, was told that his eligibility dates for resettlement leave had changed, according to a blanket prison policy. The upshot was that he would have 6 weeks' resettlement leave at most, yet the prisoner had a young daughter he had never seen and an ill father, and had had previous resettlement leave without incident. PAS's Managing Solicitor thus took the decision to judicial review, and as a result the prisoner's resettlement leave was recalculated. It has also led to a new policy in the prison estate for prisoners with consecutive sentences placed on them due to non-payment of confiscation orders, by which their resettlement leave will be subject to individual assessment □ thus taking on one case led to a significant policy change.

### **Race Discrimination**

D had been given an IEP warning due to prison staff alleging that D was about to use violence; D felt that this allegation was clearly based upon a racially discriminatory interpretation of his conduct, adhering to stereotypes about non-white people without any evidence that he had been planning to use violence. This IEP warning affected his ability to have his categorisation downgraded, affecting his proper movement through the prison system. D submitted a Discrimination Incident Reporting Form to his Diversity Manager, but astonishingly did not receive a reply for three months, until PAS intervened on his behalf. The prison eventually accepted the appeal against the IEP ruling, and restored his enhanced status. Eventually D was able to be moved to Category C, as the original decision not to recategorise him had been based upon the unlawful downgrade in his IEP status. This recategorisation decision will be crucial for his eventual progress through the prison system to open conditions.

citizens living in the UK. The claims range from those which relate to the deprivation of liberty to those which concern the imposition of economic sanctions. Some cases are focussed on the past – not least Britain's relationship with the IRA – and others relate to much more contemporary issues such as allegations of recent misconduct by the security services. It seems nothing is off the table and, importantly, we are a long way from the archetypal case that was the impetus for the legislation, which was actions against the government by returning Guantanamo detainees. In the scope of cases, if not in the number, the use of the powers is anything but 'sparing'.

In all, it is to be hoped that some further information will be provided to supplement this year's report and we would welcome any details that readers may be able to add. More importantly, perhaps, it is to be hoped that, if the JSA remains as it is, all future reports are more comprehensive and provide sufficient information to enable the public to obtain a meaningful picture of how CMPs are being used.

Postscript: In undertaking our research we had consulted with various people working in the area. On Friday, 1 August, the working paper was published was sent to a number of people with a request that any clarifications, corrections or additions would be welcome as we would like to publish a supplement should further information arise. The first addition has come through. There was an application for a section 6 declaration in *Al Ghabra v HM Treasury & FCO* (PTA/7/2013 & CO/940/2013) and the declaration was made on 17 September 2013. On our analysis, this addition means that six, not five applications were made during the first year. It also seems to be the declaration that affects a single claimant. We will publish a supplement by the end of August with this and any other information we receive.

### **Wikipedia Edits Made By Government To Minimise High Profile Killings**

Articles about the killings of Damilola Taylor and Jean Charles de Menezes were among those edited using computers from inside government, it has emerged. One amendment made using the government's IT system sought to highlight what the editor said was a "public backlash" against the amount of media attention the shooting of Jean Charles de Menezes attracted. Another amended the entry on Damilola Taylor to say that he "died", rather than that he "was murdered". An IP address that activists have traced to the British government was used to add a paragraph attacking the groups that had called for a thorough investigation into the de Menezes case.

In the Wikipedia entry on the shooting, a government internet connection was used to write: "There has been some public backlash against Menezes, with British tabloid newspaper in particular protesting that he has received more publicity than any of the 52 people who died in the bombings. 'Anti-war' groups who champion Menezes case, ignore the fate of the victims of the bombings, other than to 'understand' why the attacks occurred due to the UK's role in Iraq." It was also used to cast doubt on his immigration status and to write that the Stop the War coalition believes "that terror attacks on Britain are justified because of the UK's involvement in the overthrow of Saddam Hussein". Other changes made using a government internet connection included amending the page on the Independent Police Complaints Commission to more closely resemble its own PR messages.

A government spokesman said: "Government takes these matters very seriously. We have recently reminded civil servants of their responsibilities under the civil service code and any breaches of the code will be dealt with. We will shortly be issuing fuller guidance on using the internet and social media to all departments." It is not believed, however, that the government will launch an inquiry. Those edits, as well as others, were first reported by Channel 4 News. They emerged

after two experts claimed to have identified IP addresses used by government computers.

Asad Rehman, a spokesman for the de Menezes family, told the programme: "Like all ordinary members of the public, I'm shocked. This is yet one more smear and attack on the family. We've seen over many years lies, misinformation and smears during the family's attempt to find the truth and justice and answers about how an innocent young man on his way to work was gunned down by police officers." The news follows the revelation that offensive messages about the Hillsborough disaster were posted using government IP addresses. Wikipedia's co-founder Jimmy Wales condemned the practice and said that the site's community of editors was there to pick up such cases. But he played down the news, saying it was unlikely to be part of a "disinformation campaign" and more likely to be someone who "has gone a bit rogue".

### **Bernie Ecclestone Paid £60m to German Treasury to Escape the Law**

That a Munich court should have decreed that the Formula One tycoon Bernie Ecclestone could buy off prosecution for an alleged offence of bribery has astonished not only the German newspapers but even a former justice minister. "Justice must not be traded off in this manner," Sabine Leutheusser-Schnarrenberger declared.

There are of course, precedents. This arrangement recalls the system of papal indulgences that long existed in medieval Europe, where judicious payments could be used to spare the well-to-do, at first from inconvenient penances, and later, as they believed, from the consequences of their sins. Though officially sanctioned by Rome it was used by unscrupulous servants of the church, known as pardoners, to extort their own freelance payments from the prosperous contrite (see the writings of Langland and Chaucer).

The thought of such a system in Britain would assuredly leave most of the nation no less aghast than the Ecclestone case left Ms Leutheusser-Schnarrenberger. Yet as suggestions grow that the excesses of law-breaking bankers and other equivalent malefactors in business and industry ought to be met not just with fines but with prison, watch out for the first suggestions that such penalties might – in the national interest – be commuted. Mr Ecclestone paid £60m – 99% of which goes to the German treasury and the rest to a children's hospice. What a temptation this could be to our own Treasury ministers.

*Guardian Editorial*

### **Criminals Jailed by Magistrates Must Pay Victim Surcharge**

*BBC News*

Anyone jailed by magistrates' courts in England and Wales will no longer be excused from victim surcharge payments by serving extra prison time. Courts can currently give extra days in jail instead of making offenders pay the money, which goes to help victims. But from 1 September this will no longer be allowed - a change the government says will raise "up to £1.5 million more per year" for victims. The charity Victim Support said the surcharges must be "robustly enforced".

The victim surcharge is payable by people sentenced for criminal offences, and the money raised funds a variety of services for victims of crime. It was introduced in 2007 and the government says it has raised £51m since 2010. The latest change, brought in under the Anti-social Behaviour, Crime and Policing Act 2014, means magistrates jailing someone for an offence cannot give them an additional prison sentence as a "default" for not paying the surcharge.

"It is only right that offenders should pay both for their crimes and to help repair the damage they have done," said victims' minister Mike Penning. "The money being raised through the surcharge is already being put to use in some groundbreaking ways to help people move on with their lives as much as possible."

People jailed by magistrates' courts will have to pay £80 if their sentence is less than six months, and people jailed for up to 12 months will pay £100. It is expected it will apply to 43,000 cases per year, the Ministry of Justice said.

Adam Pemberton, assistant chief executive of Victim Support, said the surcharge "forces offenders to put something back into society. An extension to the scheme will mean a lot more offenders are making that contribution," he said. But this only works if, along with court fines and compensation orders... payments are robustly enforced."

### **Data Protection Warning**

The Information Commissioner's Office (ICO) is warning barristers and solicitors to keep personal information secure, especially paper files. This follows a number of data breaches reported to the ICO involving the legal profession. The ICO can serve a monetary penalty of up to £500,000 for a serious breach of the Data Protection Act provided the incident had the potential to cause substantial damage or substantial distress to affected individuals. In most cases these penalties are issued to companies or public authorities, but barristers and solicitors are generally classed as data controllers in their own right and are therefore legally responsible for the personal information they process.

In the last three months, 15 incidents involving members of the legal profession have been reported to the ICO. The information handled by barristers and solicitors is often very sensitive. This means that the damage caused by a data breach could meet the statutory threshold for issuing a financial penalty. Legal professionals will also often carry around large quantities of information in folders or files when taking them to or from court, and may store them at home. This can increase the risk of a data breach.

Information Commissioner, Christopher Graham, said: "The number of breaches reported by barristers and solicitors may not seem that high, but given the sensitive information they handle, and the fact that it is often held in paper files rather than secured by any sort of encryption, that number is troubling. It is important that we sound the alarm at an early stage to make sure this problem is addressed before a barrister or solicitor is left counting the financial and reputational damage of a serious data breach. We have published some top tips to help barristers and solicitors look after the personal information they handle. These measures will set them on the road to compliance and help them get the basics right."

The ICO has published the following top tips to help barristers and solicitors keep the personal information they handle secure.

- Keep paper records secure. Do not leave files in your car overnight and do lock information away when it is not in use.
- Consider data minimisation techniques in order to ensure that you are only carrying information that is essential to the task in hand.
- Where possible, store personal information on an encrypted memory stick or portable device. If the information is properly encrypted it will be virtually impossible to access it, even if the device is lost or stolen.
- When sending personal information by email consider whether the information needs to be encrypted or password protected. Avoid the pitfalls of auto-complete by double checking to make sure the email address you are sending the information to is correct.
- Only keep information for as long as is necessary. You must delete or dispose of information securely if you no longer need it.
- If you are disposing of an old computer, or other device, make sure all of the information held on the device is permanently deleted before disposal. The ICO is currently working with The Bar Council to update the Information Security Guidance provided to Barristers in England and Wales.