

**MOJUK: Newsletter 'Inside Out' No 498 (09/10/2014)**

Gough refused to sit and was taken back down to the cells. Prosecutor Simon Jones told the judge that he thought Gough had been given every opportunity to participate but would not co-operate.

A group of Gough's supporters, who had been in the public gallery, drafted a letter to the judge expressing their concerns about the way the trial was proceeding. The supporters said they were not naturists but well wishers concerned about Gough's civil liberties. The letter noted that the jury had not been told that public nudity was not in itself a criminal offence and referred to the CPS guidance on handling cases of Naturism. Gough's supporters also felt the jury should be told he had already spent eight years in custody and that Gough refused to wear clothing out of 'sincere and deeply held beliefs' and not to cause alarm or distress. The judge accepted the representation and a copy was provided for the prosecution. The Prosecutor said he not said anything to suggest public nudity was illegal as it was irrelevant – the trial was to consider an alleged breach of an ASBO not its validity. The judge said that mentioning Gough's previous time in jail was not only irrelevant, but could be prejudicial and although Gough may have 'sincere and deeply held beliefs' this is not a reasonable excuse in law. The jury of six men and six women took under 15 minutes to reach a unanimous verdict of guilty.

Gough had turned down the opportunity to hear the verdict delivered but was returned to the dock for sentencing. Judge Miller observed it was not the first ASBO Gough had broken and that he has committed a total of 48 offences: "We are going round in circles in an endless cycle of prison sentences." she observed. Sentencing the Naked Rambler to two-and-a half years imprisonment plus a £120 victim surcharge. The judge suggested that some sort of 'closed community' should be found for Gough otherwise "he is going to continue committing offences till the end of his natural life." The judge told Gough that he would only have to serve half of the sentence and warned him: "You are the author of your own destiny."

**Prisoners: Dependants**

*House of Lords / 26 Sep 2014 : Column WA453*

Lord Touhig to ask Her Majesty's Government what assessment they have made of the case for judges asking individuals whom they have remanded or sentenced to prison whether there are any children or vulnerable adults dependent upon them. What provisions exist to ensure that appropriate care arrangements are in place for the dependants of individuals who are refused bail and held on remand.[HL1264]

Minister of State, Ministry of Justice (Lord Faulks) (Con): The Government is examining practical measures to ensure that information about dependents of those sent to custody is identified and recorded. The Government has considered the case for a statutory duty on courts to inquire about the existence of dependents but remains concerned that such a duty would be impractical for the courts to operate and not be effective in encouraging defendants and offenders to disclose, as early as possible, the existence of dependents.

**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, Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

**Moazzam Begg Complains of 'Malicious' and 'Vindictive' Detention**

*Ian Cobain and Randeep Ramesh, The Guardian:* During the three years after 9/11 that he wore his chains and orange jumpsuit, the most wretched moment for Moazzam Begg came after his first interrogation at Bagram in Afghanistan. Hooded, his arms and legs chained behind him so that his spine arched backwards, he received a visit from the men who had just told him he would never see his children again. They kicked him in the head. Thirteen years on, after his latest period of incarceration, Begg says that it was not difficult to comprehend why this was happening. He says it was not difficult to comprehend why he was violently treated. "I understood where the Americans were coming from, at Bagram and Guantánamo," he says. "I understood that they were reacting to 9/11."

What is not so easy to fathom, he says in an interview with the Guardian, is why he has spent the last seven months in a cell in Belmarsh high-security prison in south London, facing first two terrorism charges, and then five more, arising from two trips to Syria – only to see the case evaporate when prosecutors announced on Wednesday that they were offering no evidence against him. The CPS declined to explain its decision, other than to say it had "recently become aware of relevant material" that led it to realise that the chances of a jury finding Begg guilty were highly remote.

It has since emerged that MI5 had neglected to hand over to police and prosecutors its minutes of meetings it had requested with Begg. He had explained that he was planning to visit the war-ravaged country – in part to investigate the agency's links with the Assad regime – and was assured he would not be hindered. It has also emerged in court that not long after that meeting with MI5, Begg's car was bugged. The listening device remained in place for more than a year.

Begg says it is inevitable that he will be bringing civil proceedings against MI5 and the government. At his family home in Hall Green, a suburb of Birmingham, Begg uses words such as malicious, and vindictive, when asked to explain what he believes may have been behind his arrest last February. He also says he feels cheated by the prosecutors' decision to abandon the case against him. "I wanted my day in court; I was spoiling for the fight. I wanted to challenge every allegation in the case against me. I believe that if I had put my case before a jury I would have been acquitted."

Begg's case is that far from being a terrorist, his first trip to the country was undertaken in order to investigate MI5's alleged role in the rendition of a Libyan man from Syria to one of Muammar Gaddafi's prisons. The second, he says, was to help to run a training camp in the countryside near Idlib, north-west Syria, where opponents of the regime could undergo physical exercise and acquire the rudiments of first aid and military training, with fake wooden guns. This, Begg insists, was not an act of terrorism, but an attempt to help people defend themselves against a murderous regime, war criminals who were gassing their own people. "I was never afraid to go to court. Any right-minded person on a jury would have seen very early on that I am not the terrorist here," he says.

Begg, 46, is by far the best known of the Britons who were picked up in Afghanistan and Pakistan after 9/11, and consigned to Guantánamo by government ministers who were

apprehensive of the way in which an enraged US administration would react if the men were allowed to return to the UK, where it was far from clear that they could be prosecuted. Since Begg's release in January 2005, he has been the leading light of Cage, a London-based pressure group that campaigns for terrorism suspects denied legal rights. Begg is a small man, his face is scarred from the beatings he received at Bagram, and he has received treatment for post-traumatic stress disorder. But he insists he will remain uncowed.

Begg says he is bewildered that so many British Muslims have faced arrest and imprisonment after returning from Syria just as Isis was gaining ground in the region. Some, he says, spent no more than a couple of weeks in Syria, during which many were deeply disturbed by what they saw of the brutality of Isis. "People returned specifically because they did not want to be part of that ... they wanted to come back. "In Denmark and Germany they are not arresting returnees from Syria. We need to find another way. Not to take young men, some as young as 19, and put them away for 15 years because they made a misjudgment about the way the British government would view them."

At the end of last year, when he had been back from Syria for almost a year, Begg realised that he too was about to face problems, when his passport was confiscated on his return from a trip to South Africa. A few weeks later, he was arrested and charged with terrorism offences, as a result of his work at the training camp and an attempt to send a Honda generator to a friend who was fighting in Syria. He was refused bail and, for seven months, was held on remand on a spur at house block four at Belmarsh. There were 74 other men on the same spur, some of them convicted murderers, yet he was one of only two who were being held as Category A prisoners – the highest security category. As a result of this, he says, it was three months before his wife and four children were granted permission to see him. "It was very difficult. I had once again, as I had to do in Guantánamo, say to myself that I am not a father, I am not a son, I am just a number."

His cell at Belmarsh was larger than the one in which he was detained at Guantánamo. And although he was locked in his cell for up to 22 hours a day, conditions were far easier: so much so that he was initially bewildered when another inmate on the spur attempted to take his own life. "It was hard to understand, because I kept on making the comparison with Guantánamo, which was much worse. I had to remind myself that I was in England, and that I had to compare England with England, and not with Guantánamo." Begg was released from Belmarsh a few hours after crown prosecutors told an Old Bailey judge on Wednesday that they were not proceeding with the case against him.

Before long, it became clear that West Midlands police officers were furious that MI5 had withheld the minutes of its meetings with Begg for so long. There were suggestions that police had always been reluctant to arrest a man who had spent three years in Guantánamo without charge, but that MI5 had been insistent. The CPS, meanwhile, issued a terse statement that said: "If we had been made aware of all of this information at the time of charging, we would not have charged."

Despite not being sure why he was arrested and charged, Begg says he suspects the explanation probably embraces incompetence, Islamophobia, maliciousness and fear. "I think we will know the answer one day and it will be very embarrassing." He says it cannot be because he wishes to see young Muslims become radicalised – "to be a fifth column in this country" – because he does not. "I am saying that we have a stake in this country and don't let our voice be silenced." One possibility, he says, is that there are some within the British state who simply wish to silence dissent "from those parts of the population [where] they would expect weakness and fear and apprehension": British Muslims.

dictable regime based on an 'up time/down time' scheme, which included association, was delivered in the later part of April and May." However, the report adds: "The board is very seriously concerned that this will have to change to an emergency regime in the very near future because of the lack of staff. The staff continue to have a very low morale. They have very serious concerns about safety, control and discipline. Most officers have little time to have meaningful conversations with prisoners which, in the board's view, is a cornerstone of their role."

The board said meaningful rehabilitation had become generally no more than an aspiration and the levels of tension and violence had increased with the introduction of young adults to the remand population. It said there had been five deaths in custody at the prison in the past year, only one of which appears to have been from natural causes. The report echoes an equally scathing verdict on Wormwood Scrubs from the chief inspector of prisons last month. Nick Hardwick reported that spending cuts had led to the regime declining in almost every respect, with parts of the jail left in a dirty, dilapidated and filthy state.

Penal reformers pointed to the state of Wormwood Scrubs as evidence that spending cuts were driving jails across England and Wales into freefall. The justice secretary, Chris Grayling, has rejected claims of a deepening prisons crisis. Michael Spurr, chief executive of the National Offender Management Service, acknowledged last month in his response to the chief inspector of prisons' report that Wormwood Scrubs had been through a difficult process adapting to the introduction of young offenders and providing a decent regime for prisoners at a lower cost. He said new permanent staff were being recruited, and the prison was receiving temporary staff support from other jails to ensure it could provide a structured and consistent regime until they were in place.

### **Concerns Raised as Naked Rambler Jailed Again**

Stephen Gough, known as the Naked Rambler, has been jailed for two-and-a half years after breaking the terms of an ASBO which bans him from appearing naked in public. Gough, a former Royal Marine, has already spent eight years of almost continuous imprisonment as a result of his refusal to wear clothes in public – even appearing in the dock naked. Gough had been arrested outside the gates of Winchester prison on April 15 just minutes after being released from a 16 month sentence for breaking an 'indefinite' ASBO – which states that he cannot appear in public naked with his buttocks and genitals exposed.

PC Rich Moody told Winchester Crown Court how he had been sent to the prison with a spare set of clothes to prevent Gough from breaching the terms of the ASBO again. PC Moody said he saw Gough emerge from jail naked except for socks and boots and carrying two large plastic bags. The officer said Gough was in full view of people waiting at a bus stop outside the Royal Hampshire County Hospital. PC Moody offered Gough a tracksuit but he refused to wear it, and was promptly arrested. The court heard, that following his arrest Gough told police that he would not comply with the ASBO because he thought it was unreasonable, saying: "I want to live a reasonable life, I want my integrity." Gough told officers he thought the ASBO was "gobbledygook" and that it "goes against my sense of what is right". Gough told police: "I am not a robot I am a human being. Just because someone says something, no matter how big he is, you just don't follow it."

Prior to selecting and swearing in the jury, Judge J Miller had Gough brought before her to ask him if he wear clothes but Gough, who was representing himself, refused. In a terse exchange, Gough refused to sit down. "I am respectfully asking to stand. I want to be treated like a normal defendant," Gough said. "A normal defendant will sit down if asked to do so." said the judge. Gough was warned that if he did not sit then the trial would proceed without him. Despite repeated requests

offenders who may struggle with low self esteem, confidence, anxiety and 'failure' issues.

The cost of the alternative curriculum will be met within existing budgets. The changes are being launched as the government introduces wide-reaching reforms to offender rehabilitation aimed at bringing down the stubbornly high reoffending rates which currently see more than 57% of all offenders sentenced to less than 12-months go on to reoffend within a year of release. This new approach will see a greater emphasis on through-the-gate support for offenders, including those on short sentences who currently get no statutory supervision on release.

#### **Sean Rigg death: 'Lying' Officers Won't Face Charges Over Custody Death**

The family of a mentally ill man who died in police custody have reacted furiously after learning that two officers who gave false accounts at his inquest would not face criminal trials. The officers were investigated for perjury and perverting the course of justice after wrongly claiming that Sean Rigg, 40, had been given a cursory check in the back of a van before he was taken into Brixton police station where he died from a heart attack.

Marcia Rigg, the dead man's sister, said: "My family is surprised and bitterly disappointed by today's announcement. We categorically do not accept this decision. "The public's confidence in the British criminal justice system is tarnished by decisions like this." The decision by the CPS is the latest blow to the family after years of campaigning following his death in 2008.

Sgt Paul White told an inquest that he had left the station and gone to the back of the van to check on Mr Rigg. Sgt White said he looked him in the eye before he declared that he was not worried about his welfare. His story was supported by Constable Mark Harratt but security-camera footage retrieved by the dead man's family later showed that the Sergeant had not gone near the van and had lied about what had happened when he went to the inquest four years later. Prosecutors said that the Sergeant's memory was affected by an undisclosed "medical condition", which meant that he had forgotten some of the key events of the evening when he was first interviewed about the death seven months later. The Crown Prosecution Service (CPS) said that the officer knew that security cameras covered the area, which would have undermined his evidence. He was never challenged about the inconsistencies until the inquest in 2012. The CPS also found evidence that the officers had contacted each other by phone but concluded that there was not enough evidence to prosecute them for colluding about their evidence to investigators and the inquest.

#### **HMP Wormwood Scrubs Staff Shortages Led to Chaos and Dysfunction**

Sweeping cuts and staff shortages have left Wormwood Scrubs, one of Britain's best-known Victorian prisons, operating in a "dysfunctional and chaotic state", according to an official watchdog. The west London jail's independent monitoring board said in its annual report that the Scrubs had had "a very dismal and highly regrettable year". It said the sudden departure of 31 prison staff in October 2013 meant the "core day was frequently a day of lockdown", and the knock-on effect was felt in every area of the prison. "There then followed many weeks of chaos and dysfunction in virtually every aspect of the prison's regime," the board said. Association and access to the library, gym, education, work, visits and even the distribution of medication were restricted or on some occasions cancelled. In November and December last year time out of cell was reduced to less than an hour a day for many prisoners.

The watchdog said a new prison governor tried to stabilise the situation by introducing security gates on the landings of most wings so that fewer officers were needed to supervise the prisoners. "Towards the end of the reporting year the situation was improving and a pre-

#### **Prison Officer Injured in Attack at HMP Swaleside**

*Jamie Orme, The Guardian,*

A prison officer had his face cut by a blade during a disturbance on Friday night involving two inmates at a jail where inspectors recently raised concerns over staff shortages. The incident at HMP Swaleside, on the Isle of Sheppey in Kent, began when two inmates climbed on to netting strung between walkways designed to stop items being thrown to the ground. A series of "small fires" were reported at about 5.30pm at the category B jail, and Kent fire and rescue confirmed that two fire engines were dispatched to the scene. The South East Coast ambulance service was also called.

The Prison Officers' Association said the injury to the officer was caused by a bladed instrument. Ministry of Justice officials said a prison officer was injured but insisted the incident was brought quickly under control.

A report published last week on an inspection of Swaleside found staff vacancies were affecting every area of the prison. Her Majesty's Inspectorate of Prisons said Swaleside was seriously affected by staff vacancies and the prison service nationally needed to take urgent steps to maintain appropriate staffing levels. Research by campaigners the Howard League for Penal Reform that the number of prison officers in Swaleside was cut by 25% in almost four years - from 265 in August 2010 to 200 in June 2014.

A spokeswoman for the Ministry of Justice said two inmates had been involved in the disturbance and confirmed an officer had been attacked. She said: "Two prisoners gained access to internal netting in an isolated incident. A prison officer was injured and taken to hospital with facial injuries. He was discharged within a couple of hours." But she said the incident was over before 11pm with both prisoners moved and no further injuries reported.

#### **Pigeon Terrorists - Birds' Bums Inspected For Explosives**

*Police Oracle*

If you're not enjoying your 'bird', spare a thought for the pigeons' anus checkers in China. Yes, there is someone checking 10,000 the backsides of pigeons. They were examined for explosives ahead of National Day, reflecting the government's nervousness about possible attacks. They were released in Tiananmen Square as part of the 65th anniversary celebrations of the founding of the People's Republic of China. Beijing domestic security police officer Guo Chunwei was quoted in the *Jinghua Times* as saying workers checked the wings, legs and anus of each pigeon ahead of time to ensure they were "not carrying suspicious material." The entire process was videotaped, and the birds were then loaded into sealed vehicles for the trip to Tiananmen Square, the newspaper said.

A similar report appeared in the *Beijing News*, and the *People's Daily* tweeted about it in English: "10,000 pigeons go through anal security check for suspicious objects Tue, ready to be released on National Day on Wed." The reports – which did not say what the suspicious materials might be – drew amused and derisive responses from some Chinese readers, and many news sites, including the *Beijing News* website, later deleted the reports. However, the *Jinghua Times* report and the *People's Daily* tweet were still visible as of midday Wednesday.

Members of the Chinese public responded with sarcasm because they see in the pigeon body searches their own plight in what they consider an oppressive society with tight surveillance, censorship and judicial injustice, independent columnist Zhang Ping said in an editorial that was circulated on social media under his pen name, Changping. "The liberty and dignity of citizens are increasingly vulnerable, and can be expropriated at any time, like with the pigeons," Zhang wrote. "They have to go through the pains and insults of the rude anal check and yet they must appear peaceful and happy on the screen of the state broadcaster."

### John Jordan 1997 Conviction Quashed

*Bindmans Solicitors*

Southwark Crown Court allowed the appeals against convictions of John Jordan, an environmental and social justice campaigner, prosecuted as a result of his involvement in a protest in 1996. The court found that the trial process, from start to finish, had been tainted by the involvement of an undercover police officer. That officer - Jim Boyling, known as 'Jim Sutton' - was involved in the protest in which John Jordan participated, was arrested and prosecuted for an offence as well, was party to confidential legal discussions between John Jordan and his lawyers by pretending to be a genuine co-defendant and then gave evidence in court at the trial in his assumed identity.

Mike Schwarz, John Jordan's lawyer in 1997 and since, said: "This case has disturbing and significant features which are different to the other 50-odd miscarriages caused by undercover policing and quashed by the courts. All the other cases involved police officer Mark Kennedy and the National Public Order Intelligence Unit and were recent. John Jordan's case involves Jim Boyling and the Special Demonstration Squad and took place in the 1990s. It involved an undercover police officer deliberately breaching lawyer-client confidentiality and giving evidence, as a defendant, in court under oath in an assumed name and identity.

But all these cases share two characteristics. They have been exposed by the efforts of campaigners, journalists and those close to and duped by the police officers, often at great personal cost. And the police, prosecution and authorities have done all they can to resist exposure. This case is not over yet. The BBC, Guardian and Press Association have joined John Jordan's efforts to get a full explanation of what happened in the 1990s and what, if any

### 'Government Secrecy Extended' Over Guildford IRA Pub Bombings

*BBC News*

It was a case that shattered confidence in the British legal system, sparked an Oscar-winning film and eventually an apology from a prime minister. Some thought when Tony Blair apologised to Gerry Conlon, Paddy Armstrong, Paul Hill and Carole Richardson, it drew a line under one of the most scarring episodes of the Troubles in Northern Ireland.

But supporters of the group, known as the Guildford Four, believe the fight for justice continues. Campaigners have fought to see secret documents relating to the case and now a lawyer has claimed a 30-year embargo on their release has "magically" been changed to 75 years. The BBC has submitted a request to see the papers and sought clarification on the embargo from the British government, but despite repeated requests has not received a response.

### A, R v (Rev 1) [2014] NICA 2 - Convictions of Sexual Assault Quashed

[1] This is an appeal against conviction on two counts of sexual assault. Leave to appeal was granted by Deeny J acting as the single judge. The appellant was tried on a total of nine counts of various sexual offences against the daughter of his long-term partner ("the complainant"). These offences as alleged by the complainant occurred during four distinct incidents. The jury convicted him on two of the counts but acquitted him on the remaining seven counts. Mr MacCreanor QC and Mr Hunt appeared for the appellant. Mr Mateer QC and Mr Magill appeared on behalf of the Crown. The Court is indebted to counsel for their helpful written and oral submissions.

[2] The appellant's grounds of appeal against conviction can be summarised as follows:

(i) The guilty verdicts are inconsistent with the not guilty verdicts. (ii) The prosecution's closing speech was unfair and prejudicial. (iii) The trial judge's summing up was inadequate in respect of the lack of independent evidence. (iv) The trial judge failed to give an adequate 'Makanjola' warning. (v) The trial judge's summing up was unbalanced in respect of the

can keep up. The demand for news this instant leaves activists fighting for social change playing catch-up, while their actions are reported and analysed by corporate media. By the time you're out of the cop shop and in front of a computer, the twitterati have beaten you to it.

Some corporate platforms even look grassroots: take Vice as a pernicious example. They're all over activism, and some of their stuff is good. But the company is part-owned by Murdoch's Fox News, they won't tell you how to get involved in direct action, and they're unlikely to be interested until your campaign is already a big deal. There is a real dearth of genuine grassroots media in the UK right now. But more than ever we need a genuine radical media – we are faced with a dying planet, mega corporations seizing control under the wing of militarised nation states, and a widening gap between rich and poor. We need to create vibrant alternative news platforms which inform and inspire.

The SchNEWS collective is taking a break before launching back into the radical media world to forge new networks, with a new model and new enthusiasm. Watch this space. In the meantime thank you to everyone over the years who has participated by donating, writing, distributing, doing the accounts, keeping the office tidy, making tea, mailing out, manning info stalls, film making, fund raising, making us laugh, supplying crap puns, but most of all getting out there and sticking it to the Man. And always remember *"If you're not pissed off – you're not paying attention"*

### Police Hunt Mystery Marks & Spencers Piddler

Police in Plymouth are looking for a man who was caught on CCTV urinating on a display of scarves in Marks and Spencer. The man, whose face is clearly visible in the clip, caused hundreds of pounds of damage to stock at the store in the Devon city. He is seen in the footage wearing a light purple-coloured shirt, walking from one stand to another, loitering occasionally before moving on, as a host of female shoppers walk past. Then, when the coast is clear, he brazenly walks up to the display and answers the call of nature. A police spokesman said the man caused £280 damage to stock, including damage to a number of scarves.

### Tailored Curriculum to Help Women Gain Vital Skills in Prison

The new approach from the Ministry of Justice and the Department for Business Innovation and Skills will see each woman's English and maths skills assessed within the first week of her prison sentence. Women will also be assessed for special educational needs. Female prisoners will have a tailored learning plan to meet their individual needs and will be offered a mix of 'life skills' and formal educational skills which will build on the established programmes already offered in women's prisons.

The training will mean that female offenders are better equipped when they leave prison, have a greater chance of finding employment and are less likely to reoffend. It can also help with self esteem and confidence issues. The MOJ will also work with education partners so women can continue their education and training on release.

Justice and Civil Liberties Minister Simon Hughes said: "Putting in place the right services for female offenders is vital if we are to reduce reoffending. This is why we are providing a tailored curriculum for women to help them lead law abiding lives. I want to see all women benefit from targeted education and training in prison which meets their needs. This will prepare them in the best way possible for eventual release and future employment opportunities."

In 2013/14, 39 women gained a NVQ Level 2 in mentoring at Drake Hall prison – including 10 women who have trained to become peer mentors, working in a variety of support roles. For example, providing support in a classroom setting to encourage participation from

administration of justice. The judge, too, must respect the reality that a very wide discretion is vested in the judgment of the advocate about how best to conduct the trial, recognising that different advocates will conduct their cases in different ways, and that the advocate will be party to confidential instructions from his client from which the judge must be excluded."

So you are not entitled to direct counsel on how your case should be conducted. Neither (if your advocate is a barrister) is your solicitor. However, your barrister is legally obliged to act in your best interests and, if he fails to do so, you may have grounds for appeal.

Do remember, though, that the grounds will be based on the seriously negative effect that your barrister's failure to act properly had on your trial. The fact that he may have been incompetent is not, in itself, grounds for appeal. Rather, it may be a powerful argument explaining why key evidence was not presented properly to the jury. The Appeal Courts will rarely consider evidence at appeal which was available at time of trial, unless you can provide a good reason why this happened, such as demonstrating that your barrister was incompetent in failing to present it at the time. *Safari are extremely grateful to CCRC for their assistance in this matter.*

### "If You're not Pissed off – You're Not Paying Attention"

These are the very last word from SchNEWS - The SchNEWS crew have decided to call it a day. We might stick out unexpected one-offs when the mood takes us but this will be the last issue of Brighton's very own 'direct action newsletter'. It's been twenty years give or take, from humble beginnings in a now legendary squatted Court House to humbler endings in a ramshackle office out the back of an anarchist social centre. The SchNEWS back catalogue is a history of two decades worth of party and protest, from Reclaim the Streets to Reclaim the Power, from anti-globalisation to anti-fracking, from Bogota to Balcombe (via Newbury). This year we blew the lid off the Infrastructure Bill (and even got a mention in the House of Lords), shone a light on the privatisation of probation, took on Michael Gove's rewrite of the First World War, stood with Anti-Fascist massive in Tower Hamlets, and took aim how the British government was arming Israel during the bombing of Gaza. Much as we'd like to say that the time for talking is over and we're about to launch an underground guerrilla war from a network of bunkers along the South Coast the truth is that we're throwing in the towel because of a lack of the people and interest required to keep going.

In many ways the format that SchNEWS originally came out in – a weekly printed A4 sheet - now looks like something Gerrard Winstanley might have knocked out. In the era of Twitter and Tumblr it seems deliberately archaic. In a world where anyone can self-publish, and corporate-owned social media platforms are the primary form of public expression, grassroots media faces many challenges. In theory, the fact that anyone can start a blog or website should lead to a more democratic form of journalism. However, while certainly adding to the ferment of debate, these platforms haven't actually strengthened our collective voice as a movement.

Face-Ache - Playing the Facebook game demands a huge amount of energy, and the corporate monster is not a level playing field. With complex advertising deals and algorithms determining what you do or don't see, maintaining an impact on social media requires hours and hours per week of social networking. For us, that hasn't been feasible.

The pattern we observe is not people reporting from the front, but an increasing reliance on mainstream sources for actual news, padded out with a series of personal reflections. Rather than having a media that can reach out, we are confined to an internet echo chamber.

The very speed of real-time news has meant that it is only salaried commentators who

quality and reliability of the complainant's evidence.(vi) The convictions are unsafe.

[3] The appellant was returned for trial on 2 March 2011 on a total of 9 counts of sexual offences allegedly committed against the same complainant on four distinct occasions between 14 June 2009 and 5 September 2010. He appeared at Belfast Crown Court on 4 April 2011 and pleaded not guilty to all charges upon being arraigned. His trial commenced on 3 December 2012 before His Honour Judge Kinney ("the trial judge") sitting with a jury. On 11 December 2012 the jury returned the following verdicts: Counts 1/3/5/6/7/8/9 not guilty - Counts 2/4 guilty

[4] On 15 March 2013 the trial judge sentenced the appellant to 3 years' probation which included a requirement to attend the Community Sex Offenders Group Work Programme. A Sexual Offences Prevention Order was also imposed and the appellant was further notified that he would be subject to the sexual offences notification requirements for 5 years.

Disposal of the Appeal: [23] Since for the reasons given the trial judge's charge did not adequately direct the jury on these issues we must quash the convictions on counts 2 and 4.

### Manufacturing Radicalisation

*By John Bowden for Prisoners Fightback*

According to the Ministry of Justice, there are now 12,000 Muslim prisoners in England and Wales, double the number a decade ago. This has prompted extensive media coverage about prison 'radicalisation'. John Bowden writes about the reality behind the propaganda.

The narrative is familiarly one-dimensional and 'public protection' orientated. We are told that young, mostly black and Asian prisoners are being brainwashed by hardened Muslim extremist prisoners and fashioned into potential terrorists and fanatics, and that in some prisons, the balance of power between prison staff and 'Muslim gangs' has shifted dangerously to the advantage of the latter. The media and political establishment link this to the worldwide rise of Islamic extremism but completely fail to explain it within the contextual reality of prison itself or the treatment of prisoners.

The subject of 'radicalisation' in prison is depicted by the media and politicians as a relatively contemporary phenomenon associated with the rise of Islamic extremism post-9/11. In fact, the political or religious radicalisation of prisoners has many historical antecedents, especially in the US, and is a phenomenon created and influenced not just by prisoner peer group pressure or the alleged brainwashing activities of dominant and manipulative extremist prisoners; it is a transformative experience primarily influenced by forces of alienation and exclusion, and intrinsically linked to the life experiences of the radicalised.

Prisons have always been sites of potential radicalisation - Malcolm X once described them as 'universities of revolution' - and during the 1960s and 1970s a veritable wave of political radicalisation swept through the prison systems of the US and western Europe, that found form and expression in prisoners' unions, revolutionary organisations and uprisings that were vocalised in the language of class struggle and radical politics. This movement also created a whole genre of radical prison literature which politicised the whole prison experience and viewed it through the prism of social and political repression. Racism, in particular, focused the anger and radicalisation of black prisoners in the US, and both the Black Panther Party and the Nation of Islam had a substantial prisoner following during that period. The prisoners who embraced these groups shared a common life experience of poverty, racism and injustice that in prison crystallised into political radicalism and commitment to a cause. The current radicalisation of young British Muslims prisoners is fuelled by similar life experience of racism and alienation, reinforced by growing Islamophobia in society generally and the profiling of entire communities as potential terrorists. Radical ideologies do not take root and grow in a vacuum, and the message of the so-called 'extremist Muslims' within the prison system would not find fertile ground without

the existence of a collective experience with which that message resonated.

Clearly there are fundamental differences between the radical, left-wing prison politics of the 1960s and 1970s, and the Islamic ideas that inform the radicalisation of young Muslim prisoners today, but whether secular or religious, the prison radicalisation experience has a common subject: young alienated men whose lives are scarred by disadvantage and institutionalisation discovering an identity and cause that provides meaning, belief and a feeling of empowerment, probably for the first time in their lives. Within a total institution like prison, power and powerlessness nakedly characterise every encounter and relationship between the system and those imposing it, and in such an environment radicalisation is inevitably deepened and confirmed.

The prison authorities have made several attempts to recruit radicalised prisoners on to 'anti-extremism programmes' but only a very small number have volunteered for these programmes. Treating radicalisation as just another form of 'offending behaviour or a personality disorder treatable by psychologically based intervention illustrates how incapable the prison system is of truly understanding the radicalisation of prisoners.

The US and British prison systems share a punitive approach towards the treatment of prisoners and a fixation with retribution and punishment, as opposed to any kind of positive rehabilitation or reform. Depersonalising and dehumanising prisoners might satisfy the populist instincts of opportunistic politicians playing to the public gallery, but in terms of the effect on prisoners, repression breeds only anger and hatred of the system, and when already alienated young prisoners in such a brutalising environment discover a radical belief system the effect is predictable.

Radicalism in prisons is created and spread by the prison system itself, a truth described by George Jackson, who as a young black US prisoner, politically radicalised in the 1970s, wrote: 'The black prisoners here are fast losing their restraints. Growing numbers of us are openly passed over when paroles are considered. They have become aware that their only hope lies in resistance. They have learned that resistance is actually possible. The holds are beginning to slip away. Very few men imprisoned for economic crimes or even crimes of passion against the oppressor feel that they are really guilty. Most of today's black convicts have come to understand that they are the most abused victims of an unrighteous order. With the living conditions of these places deteriorating, and the sure knowledge that we are slated for destruction, we have been turned into an implacable army of liberation.'

Jackson was giving voice at the time to a powerful current of political radicalisation sweeping through US prisons and deeply influencing in particular young black prisoners like himself who felt excluded and alienated from a society where racism was still overtly present. In Britain today a growing Islamophobia and demonisation of the Muslim community is creating a generation of angry and excluded young men who within the prison system are increasingly seeing themselves as radicalised soldiers implacably at war with society and the system.

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### **55% Rise in Actions Against Solicitors**

The number of new disciplinary matters involving solicitors has increased by 55% this year, Solicitors Regulation Authority papers have revealed. A report by the regulator's legal and enforcement sector shows 90 new proceedings opened in the first eight months of 2014, compared with 58 in the same period in 2013. The SRA said analysis will be undertaken to gain a better understanding of the causes of the increase. The papers, prepared for yesterday's meeting of the regulatory risk committee, also show 189 disciplinary cases were in progress at the end of August.

viction, and instruct them to present it, and they fail to do so? It's likely that this would be considered a failure to act on legitimate instructions given. We asked the Criminal Cases Review Commission (CCRC) to clarify where the line is drawn between which instructions given should be followed and which should not. They referred us to three earlier Appeal Court precedents:

In *R v U/cay & Toygun* [2007] EWCA Crim 2379, Sir Igor Judge said that "The correct meaning of the phrase "acting on instructions", as it applies to the professional responsibility of the advocate" (your legal representative) "in any criminal court, is sometimes misunderstood, even by counsel. Neither the client nor, if the advocate is a barrister, his instructing solicitor is entitled to direct counsel how the case should be conducted. The advocate is not a tinkling echo, or mouthpiece, spouting whatever his client 'instructs' him to say. In the forensic process the client's 'instructions' encompass whatever the client facing a criminal charge asserts to be the truth about the facts which bring him or her before the court. Those instructions represent the client's case, and that is the case, which the advocate should advance. In practical terms, that will often mean that prosecution witnesses will be cross-examined on the basis that they are lying or mistaken, or have misunderstood or misinterpreted something said or done by the defendant; however there is almost always some evidence advanced by the prosecution which, on the basis of the client's instructions, is not in truth in issue at all, either directly, or indirectly. Some decisions, of course, must be made not by the advocate, but by the defendant personally, for example, and pre-eminently, the plea itself, and in the course of the trial, the decision whether or not to give evidence. The advocate must give his best professional advice, leaving the ultimate decision to the client. It is however always improper for the advocate to seek to challenge evidence which is accepted to be true on the basis of the facts agreed or described by the client, merely because the lay-client, or the professional client, wishes him to do so. He may not accept nor act on such instructions."

In *R v Butt* [2005] EWCA Crim 805, Lord Justice Dyson stated: "It is no part of the duty of counsel to put every point of the defendant's case (however peripheral) to a witness or to embark on lengthy cross-examination on matters which are not really in issue. It is the duty of counsel to discriminate between important and relevant features of a defence case which must be put to a witness and minor and/or unnecessary matters which do not need to be put."

More recently, in *R v Farooqi & Others* [2013] EWCA Crim 1649, Judge LCJ stated: "Something of a myth about the meaning of the client's "instructions" has developed. As we have said, the client does not conduct the case. The advocate is not the client's mouthpiece, obliged to conduct the case in accordance with whatever the client, or when the advocate is a barrister, the solicitor "instructs" him. In short, the advocate is bound to advance the defendant's case on the basis that what his client tells him is the truth, but save for well-established principles, like the personal responsibility of the defendant to enter his own plea, and to make his own decision whether to give evidence, and perhaps whether a witness who appears to be able to give relevant admissible evidence favourable to the defendant should or should not be called, the advocate, and the advocate alone remains responsible for the forensic decisions and strategy.

That is the foundation for the right to appear as an advocate, with the privileges and responsibilities of advocates and as an advocate, burdened with twin responsibilities, both to the client and to the court. Professional integrity, if nothing else, sometimes requires submissions to be made to the judge that he is mistaken, or even, as sometimes occurs, that he is departing from contemporary standards of fairness. When difficult submissions of this kind have to be made, the advocate is simultaneously performing his responsibilities to his client and to the

ly (OK, in my circles anyway) requires judges to "take into account" Strasbourg judgments. It seems likely that an amended/repealed HRA would water this down, although unless it told judges not to take Strasbourg decisions into account, the reality is that they will continue to do so. Contrary to the propaganda, many Strasbourg judgments are perfectly sensible and that, not section 2 of the HRA, is why our judges choose to follow them.

4. There is a non-sequiter at the centre of this policy - Cameron spoke at some length about problematic judgments from the European Court of Human Rights, then announced, as his party's answer, that the HRA would be repealed and a bill of rights introduced. But if we remain party to the ECHR, Parliament is bound under international law to abide by its rulings. We might be able to tinker with British judges' duties to have regard to the judgments, but that is a separate issue. As Carl Gardner eloquently put it, British judges have been perfectly willing to ignore Strasbourg when they want to.

I am not advocating ECHR withdrawal – as said above, my view is that criticism has been overstated. But it is time to be open with the British public about what being party to the ECHR means. It means you have to follow judgments. Not because some crazy Moldovan judge told you to, but because our country signed up to an international treaty which has lots of benefits – it raises human rights standards for hundreds of millions of people in states which need it a lot more than us – and few downsides. And politicians including the Prime Minister need to explain, as annoying and convoluted as it is, that our domestic arrangements are largely separate from that system.

5. There will be champagne in Strasbourg tonight - Those at the Council of Europe and European Court of Human Rights well know that the UK leaving the ECHR or continuing to threaten withdrawal is greatly weakening the system. They will be extremely relieved to hear that a Conservative majority wouldn't be a death knell for the 64-year-old convention which has done so much good for Europe

**100th Issue of Safari News:** Some readers have asked us for advice for prisoners subject to IPPs (Imprisonment for Public Protection) when applying for a Parole hearing. SAFARI obviously is specifically concerned with those who were innocent and wrongfully convicted in the first place, and our advice is based on this. First and foremost, whilst confirming that you are innocent is OK, don't spend too much time on that. The Parole Board must work on the basis that you were rightfully convicted, so constantly claiming innocence would just place you in the position of being considered to be 'in denial'; they could argue that if you 'can't even accept your guilt' there's little chance of you reducing your risk to the public. A much better way forward is to demonstrate why, even if you had been guilty in the first place, you would not be a risk if you were released now. So if you were convicted of assaulting someone, consider moving somewhere a reasonable distance away from them. If you were convicted of a drug offence, make sure you've attended drug courses in prison and explain why what you learnt on the course has shown you the harm that can be caused by drugs. And so on. Don't lie, but do highlight how changes in circumstances show you to be a lower risk.

*Pre-Trial:* It Is Your Legal Team's Job to consider your case and advise on possible ways forward from a legal point of view. They are then broadly supposed to act on your instructions - even if those instructions are not exactly what counsel recommended. But counsel is not obliged to follow all or any instructions (for example quibbling about details where the facts are not in question). But what if you provide your barrister with key information that casts serious doubt on any possible con-

## US Court Upholds Exonerated Man's Lawsuit Against Baltimore Police

*Source: www.wbalrtv.com/news/us:* James Owens spent 21 years in prison for murder DNA evidence proved he didn't commit. The U.S. Fourth Circuit Court of Appeals has revived a wrongful murder conviction lawsuit against the Baltimore Police Department, three of its officers and an assistant state's attorney. The federal panel said James Owens, 49, can proceed with his lawsuit two years after a Maryland District Court judge dismissed the case. Owens spent 21 years behind bars after he was convicted of raping and killing his 24-year-old neighbor, Colleen Williar, in southeast Baltimore in 1987. He was to spend life in prison without parole, but DNA testing cleared him of the crime in 2008. The state ordered Owens at that time to have a new trial, but city prosecutors chose to drop the case altogether because they said many of the witnesses had died and the rest of the evidence was gone.

Owens' lawsuit alleges that police and the prosecutors who handled his case purposely withheld relevant evidence from him and his attorney, and they knew they were presenting perjured testimony against him, which led to his conviction. He seeks compensation for the misconduct of those officials, who were individually identified as assistant state's attorney Marvin Brave, as well as city officers Gary Dunnigan, Jay Landsman and Thomas Pelligrini. The mayor and Baltimore City Council were also named as defendants. The federal court ruled this week that police officers have to turn over evidence that could clear the defendant to prosecutors. If they don't, it's a violation of the defendant's right to a fair trial. The court also ruled that the Baltimore Police Department's "pattern of withholding such evidence" could subject the department to liability.

"When police and prosecutors cut corners and break the rules, innocent people can spend long periods of time behind bars for crimes they didn't commit. We are very pleased that the Fourth Circuit has recognized that the government should be held accountable for violating the constitutional protections guaranteed to Mr. Owens," said Laura Ginsberg Abelson, one of Owens' attorneys. "Mr. Owens can never get back the decades he spent in prison for a crime he did not commit. Nevertheless, he is encouraged by the court's firm acknowledgement that these police officers will be held to account for their egregious conduct," said Charles N. Curlett Jr., another of Owens' lawyers.

James Thompson was also convicted in Williar's death, and DNA cleared him of the accusations, too. Thompson testified when the two men originally went on trial, implicating himself and Owens in the crime, but defense lawyers said it was a false confession. According to The Baltimore Sun, Thompson was also granted a new trial but took a plea deal, entering an Alford Plea to second-degree murder, which means he acknowledged there was sufficient evidence against him but didn't admit guilty. Thompson was sentenced to time served.

## University of Essex Miscarriage of Justice Project

From October 2014, law and criminology students from the University of Essex will be taking part in a brand new Miscarriage of Justice project and are very excited to be working in partnership with Inside Justice. Working with Inside Justice offers our students the opportunity to work with distinguished practitioners from a number of fields: investigative journalism; campaigning; forensic science, criminology and legal practice.

Above all, working with Inside Justice will inspire our students. It offers them the opportunity to see, at first hand, the values that should underpin the criminal justice system and the consequences which flow when the system fails to live up to its ideals. Working on an actual case, they should be in no doubt about how difficult it can be to get a case reopened and how painstaking the groundwork has to be. However, working with such experienced practi-

tioners should imbue them with the optimism that with commitment to excellence and sheer hard work it is just about possible to rectify injustice. We should aim to produce graduates who will be committed to striving to prevent miscarriages of justice for the entirety of their working lives. The University's Human Rights Centre alumni work in human rights leadership positions throughout the world so foregrounding the miscarriage of justice agenda should raise it in the consciousness of future policy makers throughout the globe.

The University has worked with Inside Justice on an exciting induction programme for students, which promises to be a rewarding educational experience. They will look at crime scene investigation and management; types of evidence; cognitive bias; and a case study which will give them an insight into the know-how required to kick start an investigation into a possible miscarriage of justice. They will also be made aware of the past history of miscarriages of justice, why they occur, how they can be rectified, and how the system can be improved.

This is clearly a rich educational experience but any partnership has to be of benefit to both sides and for the project to be sustainable it must work well for Inside Justice too. The University of Essex's Miscarriage of Justice project has the backing of a leading research-led university as shown by the fact that it has been awarded one of the University's Teaching and Learning Innovation Fund grants and has offers of support not only from staff across departments but also from the Law Clinic's existing pro bono network. Obviously we can bring a pool of enthusiastic and bright people to provide extra assistance to investigations and to undertake further detailed examination of cases. This is time which is not constricted by the budgetary and time constraints of working to a legal aid contract or the time pressure under which a firm of solicitors or barristers' chambers must labour in order to earn fees. Extra resources must surely be an added bonus when Inside Justice say that 830 cases have been reported to them since 2010 as possible miscarriages of justice. Students will bring a host of fresh perspectives and new ideas, possibly in areas such as social media and its relationship to campaigning work.

The project has been very much bottom up. It has arisen as a result of the students' interest and the Student Law Society has been closely involved in its development. Such energy and enthusiasm are wonderful but not enough. Energy is a precondition of success but there has to be direction too. Students will work under the guidance of academic staff and the project is guided by a project management team so they will not be left to flounder. The project will account for progress, amongst other things, through the production of annual reports which can be assessed through various fora, such as the Law School's Advisory Board.

We can be flexible in our approach, filling in where we can be of the greatest assistance. So, if Inside Justice would prefer us to work on a whole case or an aspect of a case, we can do that. If they need a scene of crime visit or help in tracing witnesses then we can help with that too. If they need research undertaken in a particular area then we can assist there also. We are a multi-disciplinary institution with a proud history of breaking out of traditional silos and forging new links. We can contact different specialisms within the University to ensure that a problem is viewed from the standpoint of different disciplines.

Academia can often be a surprisingly small and sharing community so we are in regular contact with other academic institutions involved in similar projects and already assistance has been offered to us from an existing Inside Justice partner: the University of East Anglia. So the project will benefit from the knowledge exchange that takes place in the normal course of academic life.

The University of Essex's Miscarriage of Justice project feels honoured to be working with Inside Justice. We are very aware of the wealth of knowledge and experience which

resides within their Advisory Board and look forward to soaking it up like a sponge. In return, we would hope to assist by being able to bring that detailed assessment of aspects of cases which would otherwise struggle to get done as a result of the time constraints faced by eminent people in the field. Source: Inside Justice, 02/10/14

### **Five Things we Learned From Cameron's Human Rights Announcement**

There was some surprise at the lack of detail over human rights in Justice Secretary Chris Grayling and Home Secretary Theresa May's speeches Tuesday 30th September. Now, David Cameron has revealed all. Or at least, he has revealed some. Here is what we learned.

1. The Conservative Party will not be leaving the European Convention on Human Rights if it obtains a majority in 2015-2020. This is the really important bit, as everyone knew the long-standing Tory policy of repealing the Human Rights Act (see below) would be maintained. There has been plenty of noise from the Eurosceptic right of the party in relation to the ECHR – both Grayling and May have consistently said leaving was a possibility. But surely now it is not. Or at least, if it intends to do so it would be very odd for that major policy not to have been mentioned at the Conference.

2. Saner heads have prevailed over the ECHR - Following on from (1), despite the rhetoric from Justice and the Home Office (both departments which, as it happens, are on the other side of most human rights claims), the reality is that criticism of the ECHR has been hugely overblown. The court delivers around 10 judgments against the UK every year. Some are very controversial: prisoner votes, Abu Qatada and whole life orders have somewhat obsessed the right wing press over the past couple of years. But the real effect of those judgments is minimal. Strasbourg has said it won't order damages or costs for prisoners denied the vote, Abu Qatada was eventually sent back to Jordan as the UK wanted (albeit after a long delay – and he was subsequently acquitted) and the Court of Appeal came up with a clever fudge to allow UK judges to impose whole life orders in any event.

Despite the sacking of Dominic Grieve, Ken Clarke and William Hague, supposedly to make way for some kind of incoherent (Grieve's word) democratic override policy, that now appears to have been scrapped. Rightly so. It would have backfired. The problem with over inflating criticism of Strasbourg is that any policy responding to that disproportionate criticism will itself be disproportionate. I was impressed by Daniel Finkelstein's recent piece on human rights in The Times, being the first positive human rights pronouncement from a leading Tory in years. My reading of the content and timing was that there had been a genuine shift within influential figures in the party and I think that was probably a correct reading.

3. Here comes the British+NI Bill of Rights! - Of course, it can't be a British Bill of Rights as it must involve Northern Ireland (remember the Good Friday Agreement?). But UK Bill of Rights doesn't sounds as fish and chips Magna Carta our boys on VE Day does it? Anyway, it will be fascinating to see how this document will be produced. There is a strong argument that the Conservative Party should not impose a bill of rights without agreement from the other parties – otherwise, it is really a Conservative Bill o Rights. Of course that would please the party supporters, and potentially stop claims from immigrants, prisoners etc. but a bill of right imposed by a majority seems to miss the point slightly. Remember, the Human Rights Act (or "Labour's" Human Rights Act as Cameron described it) had cross-party support.

Another issue which will be important in a Bill of Rights would be the influence of European Court of Human Rights judgments on our domestic judges. The Human Rights Act famous-