

Det Insp Kevin Hayward said the sentencing followed a "long drawn out investigation" by the Norfolk and Suffolk Major Investigation Team. "Considerable damage had taken place at two of the units, with water damage, graffiti and general criminal damage," Det Insp Hayward said. A "considerable" cost was also incurred as locks had to be changed after a set of keys were stolen, he added. Grace Ononiwu, from the Crown Prosecution Service, said: "Four of the defendants took part in an action that was designed to overthrow lawful authority in a young offenders institution, while a fifth admitted violent disorder. "The prosecution had built a strong case using CCTV evidence and eye witness accounts, and the guilty pleas on the part of all the defendants reflect that."

**Jury – R v Pouladian-Kari** – The Judge was wrong not to discharge a jury where there was a juror who had specialist knowledge of matters relevant to the trial and who had expressed a strong view on one aspect of the case. Held: For these reasons, we are driven to the conclusion that, on the particular facts of the case, a fair minded and informed observer would have concluded that there was a real possibility of unconscious jury bias such that a fair trial was not possible. Accordingly, justice has neither been seen to be done nor, in such circumstances, can the safety of the conviction be sustained. The conviction must be quashed.

#### **Conspiracy – R v Shillam – Conviction quashed**

"We venture to say that far too often...accused persons are joined in a charge of conspiracy without any real evidence from which a jury may infer that their minds went beyond committing with one or more other persons the one or more specific acts alleged against them in the substantive counts, or went beyond a conspiracy to do a particular act or acts."

The moral of the case is that the prosecution should always think carefully, before making use of the law of conspiracy, how to formulate the conspiracy charge or charges and whether a substantive offence or offences would be more appropriate. It is unfortunate that the appellant was not charged with possession of cocaine with intent to supply (as Dean and Vizard were), for it is plain from the jury's verdict that he would have been convicted.

Lord Justice Toulson, Justice Williams and Justice Stuart-Smith

#### **Trinidad Police Fork out \$165,000 After Brutal Assault**

Jonathan Moore who was beaten with a hammer and left with permanent injuries during a police raid at his home has received a \$165,000 settlement from the State. He filed the lawsuit for unlawful arrest, assault and false imprisonment after the incident in 2009 in. The case was settled at the court door by state attorneys who conceded the case

**Hostages:** Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinane, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva, Terry Smith, Hyrone Hart, Glen Cameron, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

#### **Jailed as a Man. Released as a Woman**

*Charlotte Philby, Independent, 14/02/13*

Rebecca Hilton was Robert Hilton when she was sentenced to life in prison in 1992 for murder. It was the year John Major came to power, and Shakespears Sister and Erasure ruled the charts. Mobile phones were the size of house bricks and the internet was little more than a whisper. It's rare for a prisoner who's served a life sentence to speak about their experience inside. But Rebecca has an almost unique perspective on life at Her Majesty's pleasure, having been imprisoned in both men's and women's jails during a 21-year stretch in which she had gender reassignment surgery. Two weeks after her release, Rebecca invited The Independent to her new room at a hostel for ex-lifers in Maidstone, Kent.

Until her operation in 2011, when she was transferred to the female estate overnight, Hilton spent her years in male prisons, despite considering herself to be a woman. Because different prisons have different rules and prisoners move about so much, Rebecca's experiences varied vastly even within different men's prisons. Sometimes she was allowed to wear make-up, sometimes she wasn't. Sometimes she'd be made to wear men's clothes, sometimes she could dress as she pleased. She certainly wasn't the only person with gender issues she encountered during her sentence. Asked about differences between men's and women's prisons, she believes that whereas men looked out for each other on the inside, she felt that women "don't always want to see other women get out."

She says: "Growing up I was very confused about my gender. I didn't understand it... Where I come from, a lot of ex-miners lived there, it was rough. It was a man's world, that's how I had to grow up." The male inmates, she said, gave her no grief: "There were the ones who saw me as a little sister and wanted to protect me, or the ones who saw me like their mum. Then there were the pervs, but I could handle them..." Staff, she felt, sometimes didn't know how to deal with her.

When she first went in, Rebecca says, male prison was "rough". "Some screws would think nothing about punching you in the face and nobody would stop them, and there's not much you could do about it... There was a hell of a lot of drugs in the prison system then, practically everyone was dealing or using. "You didn't have curtains, you could put nothing on the walls, couldn't wear your own clothes, you had your little Medium Wave radio and that was it." On men's wings, violence was run of the mill. Rebecca saw a man have his throat cut by another prisoner, she saw men beaten within an inch of their lives, and a prisoner lying dead in his cell having cut his wrists: "He was blue as a piece of stilton but the screws [guards] tried to say he'd done it that night." When something like that happens, she says, "It affects everybody." She says that despite violent incidents, in many ways she remembers those as "the good old days" because "people looked after each other... There was a 'them' versus 'us' culture".

The first year in prison, she said, was "hell". "I was withdrawing from drink, I was up on a murder charge, I didn't know anybody and I was terrified to death. I wouldn't even come out of my cell." For a life-prisoner she says, it is a marathon rather than a sprint: "As a brand new lifer, there will be times when you will want to talk and times you don't want to talk and only another lifer will understand."

Two weeks after her release from East Sutton Park, Rebecca is living in a strange city with

hardly any money, adjusting to life on the outside 21 years after she left it, in a new body. At her studio flat, where her room costs £12 a week, the fridge door is decorated with photos of fellow inmates and of her parents, both of whom died while she was inside. There are a few ornaments and a guitar. In person, it is certainly hard to reconcile this witty, bright woman with her crime. But as the conversation progresses to life on the outside and her hopes for the future, Hilton's vulnerabilities become apparent. Money, work, making friends: these are just some of the issues playing on her mind as she attempts to rebuild her sense of self after 21 years as a "number". A fold-up bed slots into the wall, alongside a small table and chairs, and a sofa. The first night in a proper bed she said she "passed out" and then after that it was "terror". Silence after years of constant noise, Rebecca says, was haunting. Her first rent instalment was paid up front out of the £46 allowance she was given upon leaving prison, which will have to last her a month until her Jobseeker's Allowance comes through in four to six weeks' time: "I'm already in debt before I've started." At lunchtime we walk across town to pick up a couple of bags of food parcels from a local charity. "It's embarrassing," she said, pulling out tins of soup, cereal and bread. "I was brought up not to take charity."

Looking to the future – something she says she isn't quite ready to face head on – Rebecca would like "a nice little job in retail" but she doubts her chances. "Everybody expects you to know how to use a computer, and when you apply for a job you've got to tell them you've been in prison and then the doors slam..." The hardest thing, she said, is being on your own having grown accustomed to being around people. "A couple of times I've sat here and broke down and cried, I think it's the loneliness more than anything, sometimes I wish I had somebody to talk to." In the 21 years Rebecca was inside, the world outside has obviously changed greatly. So too behind prison walls, she believes. "Psychologically, prison is harder now than it was because you've got demoralised staff, who either don't know what they're doing or just don't care," she claims. The "good ones", the ones who came into the job because in order to make a difference, Rebecca said, "become jaded because they're not allowed to do their job". "When I was at Wakefield there was a lad who couldn't read or write and there was just no help for him so this screw was helping him read and write his letters. The bosses found out. They told him 'Your job is to lock them up'. He left in the end, he couldn't take it".

Since her release, Rebecca has felt no freer than she was inside. "Inside you're conditioned to a certain life... It's easier to get a job when you're in there, your meals are there, there's a timetable, after a while you can do it with your eyes shut. You know what time dinner is, what day your washing day is, who to talk to if you need x, y and z, how to make a phone-call. You come out and you think 'woah, hang on, things have changed'. "My probation officer has to be told if I start a new relationship, if I want to apply for a job they've got to approve it. They even put my male name at the top of my license so anyone who gets hold of this straight away will know I used to be a bloke. She accepts she has to be punished but Rebecca worries she will now struggle outside: "I don't have any friends outside, I have no money, I can't do anything. What's the point in being released? I'd rather be back in prison."

#### **CCRC Refers Sexual Assault Conviction of H to Court of Appeal**

CCRC has referred the sexual assault conviction of H to the Court of Appeal. Mr H pleaded not guilty but was convicted in 2009 of sexually assaulting a 17-year-old girl & sentenced to 18 months' imprisonment. CCRC considers that new evidence which significantly undermines the credibility of the complainant raises a real possibility that the Court will quash the conviction.

and alcohol abuse issues was good, particularly, in the latter case, for those returning to the local area. The 'Kainos' community provided a 'Challenge to Change' programme for medium-high risk prisoners that focused on thinking skills and personal development. The Kainos community was based in the wing made up of dormitory accommodation - and, as in some other aspects of the prison, made a virtue out of necessity by using the dormitory accommodation to reinforce the community ethos. On the other hand, too many prisoners left the prison without a settled address to go to or an employment, education or training place arranged.

Visit arrangements were particularly poor. The prison had not responded to the increased demand following the reduction in the foreign national population and consequent increase in the proportion of prisoners with friends and family in the UK. Many visitors had long, difficult journeys but arrived to find only the most basic facilities. There were few family days and no parenting programmes.

For many men, the very strong culture of The Verne provided an exceptional and effective experience. Those who fitted in benefited from good relationships, considerable freedom within the prison, and real opportunities to develop responsibility and change their behaviour. However, there was a risk that this culture slipped into becoming exclusive and inward-looking. It was right that the prison had strict acceptance criteria, but these needed to be applied transparently and sensibly. The prison's plans to overcome the difficulties of its location by developing better employment and resettlement opportunities also need to be progressed with vigour. The trick will be to address the prison's evident weaknesses without damaging some of its exceptional strengths.

#### **Early Day Motion 1012: Use Of Identities Of Dead Children**

That this House notes that the Metropolitan Police stole the identities of an estimated 80 dead children and issued fake passports in their names for use by undercover officers; further notes the deceased children's identities were used by the undercover officers of the now disbanded Special Demonstration Squad, which infiltrated protest groups, because they would not stand up to scrutiny if birth records were checked; condemns the stealing of these identities for use by undercover officers; believes that it is totally inappropriate for undercover officers to form sexual relationships with people they were investigating and monitoring; seeks confirmation from the Association of Chief Police Officers (ACPO) that stolen identities are not now being used by undercover officers; seeks further confirmation from the ACPO that undercover officers are not now having sexual relationships with those they are investigating and monitoring; and joins with the former Director of Public Prosecutions, Lord Macdonald, in calling for a public inquiry into police undercover operations. *Galloway, George Commons: 04/02/2013*

#### **Five Sentenced After Prison Mutiny at HMP Warren Hill**

*BBC News, 21/02/13*

Thousands of pounds of damage was caused at Warren Hill, Suffolk, in November 2010 when about 50 prisoners refused to return to their cells. Three men who admitted prison mutiny were sentenced to 16 months each in a young offenders institution, with another sentenced to two years. A fifth man was given an eight month detention and training order after he admitted violent disorder.

James Walsh, 19, formerly from Redcar was sentenced to two years in a young offenders institution. Daniel Davis, 18, from Osborne Road, London, was sentenced to 16 months along with Korie Hassan, 20, from Windsor Road, Thornton Heath, Surrey and Hussein Abukah, 20, formerly of London. Ricardo Bartholmew-Clarke, 17, of no fixed abode, was sentenced to an eight month detention and training order.

security, typified by the proactive work we observed by night staff to resolve difficulties and tensions. The external environment was clean and attractive but the conditions of the cells and dormitories in which some of the men were held was poor - although this was mitigated to some extent by the freedom of movement they enjoyed. Health care was also generally good.

This ethos was in some cases preserved by overly rigid application of criteria for accepting prisoners into the prison, and weak justification for transferring prisoners out. All men being transferred out were held in the segregation unit while they awaited transfer. So a prisoner who, for no fault of his own, was a few months under the age limit of 25 when he was brought to the prison, would be held in segregation before he was moved on. In the six months before the inspection, 50 prisoners were transferred out for unspecified 'security reasons'. We found little evidence to support some of these decisions, which were taken almost exclusively by security managers. The number of complaints had fallen since the last inspection and prisoners told us they were concerned that if they complained too often they would be transferred out.

In our view, decisions to transfer prisoners out and hold them in segregation should be subject to individual risk assessments and greater management oversight.

It was important that the strong culture of the prison did not become exclusive. Prisoners from black and minority ethnic communities and Muslim prisoners were more negative about the prison than the rest of the population. Diversity work was generally weak and investigation of discrimination incidents was inadequate. The prison had held a large foreign national population. This had reduced considerably by the time of this inspection but, despite that history, there was little attempt to understand or meet their specific needs. At the time of the inspection, Muslim prisoners' views had been understandably affected by a number of recent incidents, and there were significant problems in providing regular access to a Muslim chaplain. Provision for older prisoners and prisoners with disabilities was better but still required development.

The prison made extensive use of peer support workers and had the largest and most effective Toe by Toe scheme of any prison. Toe by Toe schemes involve one prisoner mentor working on an individual basis with a prisoner student to help improve their reading skills to the obvious benefit of both student and mentor. The scheme at The Verne was impressive and it should be encouraged in all prisons.

The extensive use of peer mentors was also important because, at the very least, it gave prisoners something constructive to do. There was much too little purposeful activity available, and much of what was provided was low quality wing domestic work. The lack of activity was largely outside the prison's control, and the constraints of the site created real difficulties. Nevertheless, the prison was making determined efforts to improve the situation. 'The Jail House Cafe', just outside the prison and overlooking the sea, was a social enterprise staffed by prisoners and open to the public and appeared to be very successful. The prison was looking to extend the social enterprise model to provide more employment opportunities for its prisoners, and this was to be encouraged. The quality and organisation of some of the more traditional activities it currently provided required improvement. The prison was building its links with local employers to shape the development of courses and improve the employment prospects of prisoners.

At the time of the inspection, a new reducing reoffending strategy had recently been introduced but it was too early to see its results. Resettlement activity had not had sufficient priority in the past and certainly required improvement. Offender supervisors had large case loads and insufficient contact with the prisoners for whom they were responsible.

Practical resettlement services were mixed. On the one hand, help with health and drugs

### **Education Is Subversive In Prison – John Bowden**

The role of teachers and educational tutors employed by local colleges and contracted to work within the prison system can be a conflicting and potentially very hazardous one. Empowering prisoners with knowledge in an environment intrinsically organised to disempower them can sometimes be a dangerous activity.

Unlike the function and role of most other types of staff working within prisons (guards, probation officers, social workers and psychologists etc.) that revolve around the containment, control and disempowerment of prisoners, teaching within jails usually involves a relationship with prisoners that is often inimical to that custody and control dimension of prisons. The uniformed guards who basically control and maintain 'discipline' in prisons instinctively understand the empowering influence of education on prisoners, which is essentially why they view civilian teachers working within prisons with suspicion and as an always potentially weak link in the chain of security and 'discipline' (control), whose loyalty is always in question. There is a very strong and all-pervading occupational culture amongst prison guards that views any attempt to empower and humanise those over whom they exact an absolute degree of power as just another step to a liberalism that undermines and weakens the basic function of the prison – punishment and absolute control. It's an attitude and culture that teachers working within prisons are confronted by every day, as well as a balance of institutional power firmly tipped in favour of the guards, who charged with maintaining the physical security of the prison will always inevitably label teachers who question their authority and power as a 'security risk', which is a sure way of getting them removed from the prison and recalled to a local college usually desperate to protect and continue its contract with the prison system.

Essentially, however, to usually poorly-educated prison guards it's the spectre of educated and empowered prisoners that disturbs and angers those responsible for maintaining and enforcing the 'good order and discipline' role of prisons, and in the mini totalitarian world of prison the aphorism "knowledge is power" is something clearly understood by those keeping prisoners in a constant condition of absolute powerlessness.

The education department, or Learning Centre at Shotts maximum-security prison in Lanarkshire, Scotland, was, before the arrival of Kate Hendry in the summer of 2011, a place of little inspiration or significance within the prison. The curriculum and number of subjects available was basic and poor, the classes poorly attended, most numbering less than a half-dozen prisoners, and teachers always mindful of their lowly position within the hierarchy of power within the prison. Education and classes were always peripheral to the main daily activity of the jail: enforced attendance in the cheap-labour work sheds where a more acceptable 'work ethic' could be instilled, the fundamental basis of prisoner 'rehabilitation' for those who have failed to accept their true place in class society. Classes were usually attended by those desperate to escape the mindless drudgery of the work sheds but unwilling to risk a 'disciplinary report' and the removal of even the most basic of 'privileges' by outwardly refusing to 'attend labour'. Classes were usually a last option before the punishment of the removal of recreation time with other prisoners or a spell in the very austere lock-down 'segregation unit'.

The function and purpose of the Learning Centre at Shotts had been reduced to achieving little more than the prison's statutory obligation to provide at least the basic rudiments of an education (the three Rs) to those prisoners who needed and asked for it.

Kate Hendry's impact on the Learning Centre at Shotts prison could be fairly described, from the first day, as seismic, simply because of her commitment and dedication to providing a

high quality of education to prisoners, something her colleagues in the Learning Centre, apart from the odd, isolated individual, had long ago forsaken in the interests of just supervising a class, not rocking the boat, and continuing to draw a salary. Kate also pushed hard against the boundaries that restricted the development of the Learning Centre, the institutional culture of control and 'dynamic security', that which says prison security is not just about bars, walls, lock and keys, but also about the control of prisoners, both physically and psychologically, and the treating with suspicion of anyone who enters and works with the prison who might threaten or challenge that concept of 'security'. Kate certainly did that with her uncompromising belief in and commitment to the educational and intellectual integrity of the Learning Centre, and her attempt to involve her chief employer, Motherwell College, far more closely in the activity and range of classes provided by the Learning Centre, thereby strengthening its independence from the restricting influence of the prison's management and their uniformed guards who believe prisoners should be watched, controlled and counted, not educated to a point where they might challenge the authority and legitimacy of the regime inflicted on them. An educated convict is a dangerous convict in the eyes of most jailers.

Her achievements within her first twelve months of working at the prison were considerable. She created a high-quality, award winning national prisoners' art magazine based at Shotts. She formed a prisoners/students representative forum with direct input into discussions and decisions influencing the management and quality of the Learning Centre. Virtually single-handedly she created a new library in the jail, where before there existed just a few shelves of pulp fiction and true crime books in an almost inaccessible area of the prison for prisoners. She organised a "Cuba Week", featuring Cuban music, art and films, and a talk from a representative of the Cuba Solidarity Campaign. She was in the process of organising a "Writers in Prison" week, looking at the lives and writing of prisoners of conscience from around the world, before the events that were to lead to her exclusion from the prison unfolded. For the relatively brief period of time that she worked at the prison she created a dynamic in the Learning Centre that was empowering and inspiring, and revealed the true potential of education as a means of transforming the lives of prisoners in a fairly revolutionary way.

I had attended classes in the prison a short while before Kate began working there and had attempted to organise a 'debate' class, encouraging prisoners who attended to learn the skills and confidence of public speaking and debate, something difficult for individuals whose self-esteem has been virtually destroyed by years, and often lifetimes of brutal institutionalisation. The class became a sort of organisational nucleus for events like a large debate held in the prison chapel and attended by prisoners throughout the jail, all debating the topic, "Alternatives to Prison", which a guard at the back of the chapel taking notes would subsequently become an 'entry' in my security file presented to the parole board, that claimed I had simply used "as a platform for his latest political views". Even before Kate's arrival in the Learning Centre at Shotts my presence and influence there was perceived as in some way 'subversive' and probably motivated by intention simply to create disruption and discontent within the jail.

My initial impression of Kate was unfortunately coloured by prejudice and suspicion and so I viewed her as a middle-class liberal probably driven by personal ambition, not the empowerment of my brother prisoners. I was wrong. I eventually collaborated with her on a number of projects within the Learning Centre that were probably viewed by the jail's administration as dangerously 'left-wing' and potentially threatening in terms of the effect they might have had on the intellectual confidence and increased self-esteem of prisoners. Over time the intel-

tions that arise from this tragic and premature death."

IPCC investigators have been provided with initial statements from the two police officers involved and will be seeking to speak with the person who was with Mr Bore at the time of his arrest. Further evidence will be gathered as the investigation progresses. Next of kin have been informed of Mr Bore's death, formal identification has taken place and a post mortem, the results of which were inconclusive, was held on Monday 18 February.

### **Warren Hill Granted Stay Of Execution**

*Ed Pilkington, guardian.co.uk, 20/02/13*

An intellectually disabled prisoner, has been spared the death chamber just 30 minutes before he was due to die by lethal injection in Georgia on Tuesday 19th February 2013, despite a US supreme court ban on executions of people with learning difficulties.

Warren Hill, 53, had already taken an oral sedative of Ativan to help calm himself for the gurney before he learned of the stay of execution from the federal appeals court for the 11th circuit. The court agreed to consider the issue of his intellectual disabilities in the light of a 2002 US supreme court ruling that prohibits executions of "mentally retarded" prisoners as a breach of the constitutional safeguard against cruel and unusual punishment.

### **Report on an Announced inspection of HMP The Verne**

Inspection 1–5 Oct 2012 by HMCIP, report compiled Decem 2012, published 19/02/13

Inspectors had concerns:

- in some cases overly rigid criteria were applied for accepting prisoners into the prison, weak justification was used for transferring prisoners out, and there was little evidence to support some of these decisions;
- all men being transferred out were held in the segregation unit while they awaited transfer;
- prisoners said they concerned if they complained too often, they would be transferred out;
- Muslim prisoners' views had been understandably affected by a number of recent incidents, and there were significant problems in providing regular access to a Muslim chaplain
- prisoners from black and minority ethnic communities and Muslim prisoners were more negative about the prison than the rest of the population, and there was little attempt to meet the needs of the large foreign national population;
- there was too little purposeful activity available and much of what was provided was low-quality wing domestic work, although the constraints of the site created real difficulties;
- resettlement activity required improvement, as offender supervisors had large caseloads and insufficient contact with prisoners for whom they were responsible; and
- visits arrangements were particularly poor.
- too many prisoners left the prison without a settled address to go to or an employment, education or training place arranged.

Introduction from the report: Based in a Victorian citadel, and situated above the harbour on the Isle of Portland, on the south coast near Weymouth, The Verne is a unique prison in many respects.

Perhaps as a result of its isolated location, The Verne has historically been characterised by a strong sense of community and very good staff-prisoner relationships. The 600 or so men it holds have had much more freedom within the confines of the prison than is usually the case in a category C training prison of this type.

These very positive features remain in place today. Few prisoners felt unsafe and there were low levels of violence and self-harm. The generally good relationships underpinned good dynamic

lish how he was doing staff informed her that he was 'banging his head' and 'being aggressive'. On the 7th of January Andell-Malia was transferred for the third time in four days, but this time to the Cygnet Hospital in Stevenage Hertfordshire.

For 10 consecutive days the from Monday 7th January to Thursday 17th Andel Malia's girlfriend called Cygnet Hospital to find out about her partners welfare. She was denied all access to him and was told by staff that he was in no fit state to come to the phone. On 17th January staff at the Chamberlain Ward at Cygnet Hospital contacted Andel Malia's partner to tell her that he had been transferred from the privately run hospital, where his had gone into cardiac arrest to Lister Hospital to be resuscitated. Later that afternoon Andell-Malia's partner was told that he suffered another heart attack and was pronounced dead at 3pm on Thursday 17th January 2013. When asked what had happened staff at Cygnet told his family that the 24-year-old 'went to visit the bathroom and had 'keeled over'.

The death of yet another black man detained under the Mental Health Act just three weeks into the New Year has led to renewed calls for wholesale reform in the treatment of people from the UK's African Caribbean communities who come in contact with the system. This case has also raises widespread concern about the welfare of those detained in this system.

Michelle Fullerton, aunt of Jonathan David Andel Maila said: 'We want justice and answers, we want to establish what went wrong and for those responsible to admit it, not have this swept under the carpet. There are far too many cases like this and they get covered up we need to see an end to this, because is it wrong on so many levels, everybody's angry. He was a nice young man, he was intelligent, he went into hospital as a voluntary patient to see if he could get some get some help and now he is dead.'

Matilda MacAttram director Black Mental Health UK: ' Just three weeks into the New Year, the last thing anyone would have expected to hear is that there has been yet another death of a young man from the African Caribbean community while detained in mental health services, it's like the lessons from all the other fatalities have not been learnt. Jonathan Andel Mailia case reinforces once again the need for wholesale reform in the way this group are treated by the services, and proper accountability on the part of those who are found to be negligent in these cases where there is loss of a life.'

### **Inquiry Into Steven Bore's Death After Canvey Island Police Arrest**

The Independent Police Complaints Commission (IPCC) is investigating an incident in which 31 year old Steven Bore of Canvey Island died after being arrested by Essex Police. The information available from the police indicates that Mr Bore was arrested on a warrant shortly after midnight on Sunday 17 February on a houseboat at Smallgains Marina on Canvey Island, Essex. The warrant was in relation to non-payment of council tax. The officers involved state that Mr Bore was being escorted to a nearby police car when he fell from a wooden jetty onto an embankment. An ambulance was requested just before 12:30am and Mr Bore was taken to Basildon General Hospital where he was sadly pronounced dead at 2:43am. The IPCC was notified just after 1:30am and an investigator was sent to the scene to undertake an assessment of the circumstances. The matter was declared an independent investigation on Sunday morning. IPCC Commissioner, Mary Cunneen said: "I would like to extend my condolences to Mr Bore's family and friends at this very difficult time. It is vital when someone dies in the custody of the police that an investigation is conducted independently of the force involved. I will ensure that we do all within our power to provide answers to the many ques-

lectual and political relationship I formed with Kate would be interpreted by some guards and jail managers at Shotts as a 'security risk' and justification for her removal from the prison. Two events probably became the catalysts for the process that would lead not only to her exclusion from the jail but a deliberate attempt by the administration to destroy her professionally and personally. The first was my openly confronting a delegation of Turkish prison officials being taken on a guided tour of the prison and its Learning Centre by the jail governor and an E.U. Official. Prior to their arrival Kate had made known her views about the visit and how it was legitimising and lending respectability to probably the most brutal prison system in the so-called developed world. She was therefore viewed as complicit in my attempt to embarrass the visitors by confronting them with their verified record of human rights abuse.

The second event was clearly the most critical one, revealing as it did something about Kate's true loyalty in the eyes of the prison guards and clearly marking her out for removal from the jail as a consequence. Guards supervising the Learning Centre had obviously been told to 'keep an eye' on certain prisoners who attended classes and restrict as much as possible their movement around the centre. I was in no doubt that I was one of the prisoners being more carefully watched.

One morning a young and particularly over-zealous guard decided to interpret the instruction to 'keep an eye' on me as probably a license to put me on a disciplinary charge for whatever he liked. He decided to 'nick' me for smoking in the Centre's tea break area. Not a single one of the twenty or so prisoners also in the area at the time saw me smoking, neither did the guard's own colleague who was also carefully watching those prisoners, including me. The guard's action quickly created an atmosphere of anger amongst both prisoners and teachers in the Centre, although the later had long ago learned never to take a prisoner's side in a dispute with guards and risk professional suicide as far as continuing to work in any prison was concerned. Kate, however, was not so constrained and she directly approached the guard and expressed her unease about what appeared to be my victimisation. By appearing to openly take the side of a prisoner against a guard, Kate would provoke an immediate and total hardening of attitude against her by those who ran the prison. Her position wasn't helped by the official perception of the prisoner that she appeared to align herself with – a long-time "subversive" and "disruptive influence" in the prison.

I would subsequently be cleared of the charge the guard had invented against me by a prison disciplinary hearing, but for Kate the nightmare was about to begin.

The guard that Kate had confronted in my defence submitted a "security intelligence report" to the prison's security department alleging that Kate was involved in an "inappropriate relationship" with me and was therefore a "security risk". A prison manager then phoned Motherwell College and claimed that Kate had become "emotionally involved" with a prisoner and she was under suspicion. A manager at Motherwell College then phoned Kate at home late one night whilst her partner and children were present and informed her of the prison's allegation. She was also informed that when she returned to the jail the following day she would be 'interviewed' by a security manager about the allegation. She was duly summoned to the prison's security department the next day and in the presence of the Learning Centre manager warned that prison staff suspected her of becoming unprofessionally close with a prisoner and that "boundaries" had been crossed. She strenuously denied the allegation and demanded to be shown what real evidence existed to support it. Of course there was none, so she was then warned that I was a "psychopathic" and "subversive" prisoner who was simply "manipulating" her for my own sinister and disruptive ends. She was then questioned about

some of the projects we had organised in the Learning Centre and told that prison staff suspected my involvement in them suggested a “politically subversive” dimension to the activities that could impact on the “good order and discipline” of the prison. She was finally warned that I was being closely watched by the guards so her contact with me should be kept to the absolute minimum.

Of course the intention to remove Kate from the prison remained and a second guard submitted a “security intelligence report” on her, claiming she had taken me without permission to the prison library and spent some time there alone with me. This was a complete lie and related to a visit Kate, me and another prisoner had made to the old prison library to assess what books should be retained for the new library. She had obtained permission to take myself and the other prisoner to the old library which was situated in the busy administration area of the jail. The guard who submitted the security report against Kate was actually present with us in the library at the time.

On the 26th September 2012 a known prisoner informer told a member of the teaching staff that Kate had exchanged “love letters” with me and had witnessed us being intimate with each other. The teacher reported the information to the Learning Centre manager, who passed it on to senior prison management. The following day Kate was denied entry to the prison and Motherwell College told her that she would be placed before a college disciplinary hearing on a charge of “gross misconduct”. I was also seen by two prison managers and informed that I was barred from the jail's Learning Centre and my behaviour was under investigation.

No “love letters” were ever discovered or produced as evidence against Kate or me, and when closely questioned by security staff at the prison all of the teaching staff said they had never witnessed or seen any inappropriate behaviour between myself and Kate, and neither had any of the guards who supervised the Learning Centre. The prison informer was revealed to be someone with a history of serious mental illness who had previously passed false information to prison staff.

Kate's treatment deeply angered the prisoners who attended the Learning Centre and who had benefited from her dedication and tireless commitment to prison education, so they organised and signed a petition in support of her and sent copies to the Scottish Prison Service H.Q. And the local M.P. For the area. The M.P. Pamela Nash, wrote to the governor of Shotts, Ian Whitehead, expressing concern about Kate's treatment and asking that the matter be fully and promptly investigated. She also asked that copies of her letter and Whitehead's response to it be made available to all those prisoners who had signed the petition. In his response Whitehead tried to absolve himself or his staff of any responsibility for Kate's removal from her post at the prison and instead shifted the blame and responsibility to Motherwell College, claiming they alone had decided to withdraw her from the prison, and the responsibility for any investigation subsequently lay with them.

A short while after that a story was leaked to a Scottish tabloid that claimed there had been a “love affair” between me and Kate, and inevitably I was described in the usual folk devil way. The purpose of those who passed the story to the tabloid was essentially to destroy Kate's professional and personal reputation.

Following Kate's sacking from the prison all her projects and work in the Learning Centre were closed down and eradicated. What happened to Kate Hendry absolutely epitomises the treatment of any member of staff working in prisons, especially in a 'non-custodial' role, who dares to relate to prisoners with humanity and solidarity. The position of civilian teachers is

this happens in the Magistrates' courts. It is simply not good enough. So I want to see a far higher proportion of effective trials that go ahead the first time that they are listed. Ineffective trials should be the exception, not the rule.'

### **Life Sentence Reduced - Robber's Aggression Was 'Due To Brain Tumour'**

Trevor Raymond Hayes, 47, has had his indefinite jail sentence overturned – after judges ruled that he behaved aggressively only because of a brain tumour. He was sentenced to imprisonment for public protection in July 2011 for a string of robberies, during which he put a sawn-off shotgun to the heads of customers in a post office and bank. Hayes, of Henley-on-Thames, Oxon, a man whose previous criminal career had consisted largely of “petty theft”, also used the gun to threaten two motorists before stealing a van. Hayes pleaded guilty to three counts of robbery, various firearm offences and arson at Oxford Crown Court, and was jailed indefinitely after the judge ruled he was a dangerous offender who posed a serious risk of future harm to the public.

But today 18/02/13 Lord Justice Davis, Mr Justice King and Mr Justice Kenneth Parker, sitting at London's Criminal Appeal Court, overturned the sentence after hearing that a massive undiscovered brain tumour was found to be the cause of his “aggressive and compulsive behaviour”. The tumour, which was pressing on his frontal lobe, was discovered and removed six months after Hayes was sent to jail.

Barrister Jonathan Rose presented a medical report to the court, in which a doctor explained the “unusual scenario” and said that Hayes was no longer a public risk. Having removed the brain tumour, if one can keep this tumour under control, he would be unlikely to show any aggressive or compulsive behaviour,” said Mr Rose. “The concern is no longer there. It is such an unusual scenario.”

Lord Justice Davis said of the new evidence: “There is a direct link between the size of the tumour and his behaviour. The evidence appears to be clear.” Mr Justice King said it was a “highly unusual case”, adding that Hayes’ “ability to rationalise his own conduct and exercise self-control” had been negatively affected by the tumour, He was suffering from an abnormality of mind. Had there been no tumour, he would not have behaved as he did. One would have expected him to continue with his previous course of petty theft, not to indulge in personal threats and the use of firearms. There is nothing to suggest that he will again be a danger to the public,” the judge said. We are satisfied that, because of the doctor's report, no court would conclude that there is a significant risk to the public now the tumour has been removed and the finding of dangerousness in these wholly exceptional circumstances should be set aside.”

Quashing the indefinite sentence, the judges replaced it with an 11-year jail term, of which Hayes will serve half before qualifying for automatic release. They said that he had not reduced the sentence any further because the medical report had not concluded that Hayes had not realised he was committing crimes. *Matthew Moore, Independent, 18 February 2013*

### **Andel Malia - Another Death of Healthy Black Man in State Custody** *Mental Health UK, 11/02/13*

The tragic death of Jonathan Andel Malia who lost his life while in the care of mental health services, just three weeks into the New Year, has again raised concerns about the treatment of patients from the UK's African Caribbean communities detained in this system. The physically fit and healthy father-of-one was admitted as a voluntary patient to the Queen Elizabeth Hospital in Selly Oak Birmingham on the 4th of January this year. He was transferred to Meadow Croft Hospital in Winson Green the next day. When his girlfriend called to estab-

eventually, an adverse judgment in the European Court of Human Rights.

The Final Word: So, as a matter of law, does Parliament really have the final word? It is ultimately free to do as it pleases as a matter of national law (at least for as long as the notion of parliamentary sovereignty persists). But such an analysis, concerned exclusively with the domestic position, is unduly parochial. The legal reality is that so long as the UK remains a party to the ECHR, it is bound by the Convention rights and by the judgments of the Strasbourg Court.

There is, of course, room for disagreement about the precise meaning of those rights. As Roger Masterman has recently pointed out, domestic courts do – and need – not inevitably yield to Strasbourg’s interpretation of those rights. Equally, the margin of appreciation doctrine means that national governments and legislatures have some latitude. It would, therefore, be entirely possible for the UK Parliament to legislate in relation to Article 8 in a way that exploited the margin of appreciation. But legislation requiring judges to decide cases in a way that would exceed that margin would be another matter.

*Reality check:* To those for whom strong judicial protection of fundamental rights is a cause for celebration, one of the HRA’s great strengths is that it takes norms that are binding in international law and places them front-and-centre in the domestic sphere. In doing so, it puts under pressure the orthodox view that Parliament can do exactly as it pleases – including by removing or curtailing basic rights.

Of course, the Home Secretary and her colleagues are free to argue in favour of repealing the HRA and withdrawal from the ECHR, so as to conjure back into existence a golden age of true sovereignty in which the odiousness of parliamentary legislation is legally unchecked. But unless they are willing to make that argument – and pay the political and reputational price for doing so – it is time that they took a reality check and acknowledged the legal constraints that flow from Britain’s international obligations, for which the HRA is simply (but importantly) the conduit. It would be better still if such politicians were willing to recognise that human rights law, rather than being something with which we are (at least for the time being) merely stuck, is a valuable and far from undemocratic counterbalance to the majoritarian political process. Perhaps, however, that is asking too much.

Jonathan Aniel Malia is the latest in a long line of black men to die in custody. While by no means an exclusively black issue, the cases of Kingsley Burrell-Brown, Sean Rigg, Olaseni Lewis, Fitz Hicks, Mikey Powell, Roger Sylvester and now Jonathan Aniel have highlighted the problems faced by detained black men – particularly those held in the mental health system.

### **Unacceptable Delays in Criminal Justice System**

There are unacceptable delays in Magistrates’ Courts which slows down justice for victims, said Justice Minister Damian Green as he announced plans to modernise the system. In a speech about criminal justice reform Damian Green set out his vision to: Address the causes of inefficiency by working together with the police, judiciary, Crown Prosecution Service and court services. Get rid of regional inequalities when dealing with cases. Areas such as London and Wales appear to take longer for court proceedings than the North East and North West. Have a digital transformation of the entire criminal justice process. Improve how courts deal with high volume cases.

Damian Green said: ‘It is unacceptable that only 44 per cent of trials go ahead on the day they have been listed, if every day only 44 per cent of trains left the stations, or 44 per cent of planned hospital operations took place there would be a national uproar. Yet every day

particularly hazardous in that regard because of the nature of their relationship with prisoners and the potentially empowering effect their work has on prisoners, something prison administrations would rather was purged from prisons for obvious reasons. In many long-term jails the education department or Learning Centre is the one place where it is possible to effect a change in the relationship of power between prisoner and jailer, as well as returning some semblance of self-respect and intellectual integrity. That is a spectre that unnerves those employed to subjugate and disempower prisoners, and their deepest wrath is reserved for those actively trying to make that spectre a living reality.

John Bowden: 6729, HMP Shotts, Canthill Road, Shotts, Scotland, ML7 4LE

### **POA a State sanctioned Oppressor and Bully of Working Class People**

John Massey one of the longest serving life sentence prisoners in the UK (sentenced 1976) and now aged 64 has been charged with assaulting prison staff at HMP Belmarsh. During the morning of the 5 February 2013, John was called in from the exercise yard at Belmarsh Prison to undergo a cell and body search. During the cell search procedure and following an exchange of words between John and prison staff, nine prison officers including a dog handler, set upon John and seriously assaulted him. He sustained cuts and bruises and has been seen by medical staff.

He was later seen by his solicitor who had booked a legal visit for that very afternoon. The injuries and details were noted by that solicitor and legal proceedings against those prison officers are underway. John aged 64 and virtually a pensioner has now been charged with assaulting prison officers which is always a normal ploy for prison staff to defend themselves against any accusations of brutality. A 64 year old slim diminutive man taking on 9 prison officers? Even for John this would have been highly ambitious and indeed lunacy and he is not an unintelligent man.

Those taking part in this assault were members of the dedicated Drug Search Team (DST) and efforts are now being made to identify them by name. Such activity by prison officers is nothing new and what is needed is more prosecutions as happened in 2001 when twenty seven prison officers from Wormwood Scrubs were accused of beating prisoners. Six of them were found guilty and were themselves jailed and several others were sacked.

John’s case will be familiar to many as the prisoner who escaped from Pentonville Prison in September 2012 by scaling the prison wall. He had been recalled to prison for failing to comply with a condition of his life licence. Had he offended? No! Had he raised any concerns as to his risk to the public? No! Had he left the country? No!

What John had done was to challenge the decision of the Prison and Probation Service to be allowed to visit a dying relative including a previous occasion when another relative who was terminally ill and the Probation Service had refused him an overnight stay away from the probation hostel in which he was ordered to reside. He did no more than what many other people would have done. He took leave of the hostel and later surrendered to the police following the death of his sister. On a previous occasion he had simply walked out of HMP Ford to visit his dying father after being refused a visit to him in hospital.

Following his escape from Pentonville and his subsequent recapture, he was detained at Belmarsh and it was whilst there that his mother died. Again, the prison authorities refused to allow him to visit her during her final moments. He was later transferred to high security HMP Frankland. A high security prison for a prisoner who had been considered low risk to

have been in 2 open prisons?

John had been released on life licence from HMP Sudbury in 2007 and had always complied with the terms and conditions of his life licence but no allowances, consideration or flexibility have been afforded him in his grieving moments. The state wanted its pound of flesh. John is now back in Belmarsh to await trial on prison escape charges which can carry a maximum of 10 years imprisonment and I sat in Blackfriar's Crown Court on Thursday 14 February as he was led into the dock.

A slim man who appeared to look vulnerable and frail, he was surrounded by no less than 3 prison officers which included one who towered over John and was sat directly behind him. And all this for a 64 year old and almost a pensioner who did no more than wanting to be able to spend the final moments in the lives of three terminally ill relatives, his mother, his father and his sister. Release John now and allow him to live out his final years in the peace. Stop the intimidation and brutality.

It really is disgraceful that the Prison Officer's Association is a member of that working class body the TUC which exists to protect and promote the interests of working class people everywhere for the POA is no more than a state sanctioned oppressor and bully of working class people the class to which John and his family belong.

John's case has been set down for the 4 April 2013 at Blackfriar's Crown Court and all are welcome to show solidarity for John.

Letters of support should be sent to

John Massey A4468AD: HMP Belmarsh, Western Way, Thamesmead, London, SE28 0EB

Faxes/Letters/Phone calls of Protest to:

Governor: Phil Wragg, HMP Belmarsh, Western Way, Thamesmead, London, SE28 0EB

### **A Human Rights Reality Check for the Home Secretary**

Dr Mark Elliott, UK Human Rights Blog, 18/02/13

The Home Secretary, Theresa May, is no stranger to ill-founded outbursts concerning the evils of human rights. Against that background, her recent article in the Mail on Sunday does not disappoint. May's ire is drawn by certain recent judicial decisions in which the deportation of foreign criminals has been ruled unlawful on the ground that it would breach their right to respect for private and family life under Article 8 of the European Convention on Human Rights. Some of these judgments, May contends, flout instructions issued to judges by Parliament about how such cases should be decided.

Those instructions consist of new provisions inserted last year into the Immigration Rules, the intended effect of which was to make it much harder for foreign criminals to resist deportation on Article 8 grounds. The Rules – made by the executive and endorsed by Parliament, but not contained in primary legislation – provide that, where certain criteria are met, “it will only be in exceptional circumstances that the public interest in deportation will be outweighed by other factors”. The assumption appeared to be that this would prevent judges – absent exceptional circumstances – from performing their normal function of determining whether deportation would be a disproportionate interference with the Article 8 right.

Quite properly, the Upper Tribunal has held that while the new Rules can “operate to enhance judicial understanding of the ‘public interest’ side of the [proportionality] scales”, they cannot relieve courts or tribunals of their obligation under the Human Rights Act 1998 to apply Article 8 itself. The Home Secretary has now concluded that Parliament's wishes need to

be enshrined in primary legislation, because judges have not only “ignored” the Rules, but have “got it into their heads that Article 8 ... is an absolute, unqualified right”.

Of course, they have in fact done neither of these things – in the case which May appears to single out for particular criticism, the Upper Tribunal says “it is obvious” that Article 8 is a qualified right – and these overblown criticisms invite nothing less than ridicule. At one level, therefore, this episode is simply an illustration of the willingness of certain politicians and some sections of the media to collude in spectacularly ill-informed trashing of human rights law and the judges who administer it.

But however wrong-headed Theresa May's critique might be, it forms part of a much wider public discourse about the nature and acceptability of human rights in contemporary Britain. This is so because May's argument, shorn of its baseless analysis of the specific matter that she has in her sights, reduces to the bald propositions that the UK Parliament, not the judiciary, should and does have the ultimate say over matters pertaining to human rights. The former claim – a normative one – is contestable. The latter claim – a factual one – is demonstrably false.

*Who Calls the Shots:* Let us begin with the normative claim: that politicians must be permitted to call the shots because anything else would (as May puts it) cause “our democracy to be subverted”. Leaving to one side the fatuousness of May's surface argument – after all, by deciding cases in accordance with the ECHR, judges are doing precisely what Parliament has instructed via the HRA – her underlying point reveals a more fundamental misconception that impoverishes public discourse about human rights.

That misconception is founded upon the simplistic assumption that any judicial decision which fails to chime with the thinking of the “moral majority” must be illegitimate and undemocratic (a related mindset underpins the Government's perception of judicial review as an unwelcome irritant that gets in the way of effective administration.) Yet part of the point of human rights law is to operate as a brake upon the power of the majority, so as to afford protection to weaker, marginalised groups whose voices are so often drowned out in the political maelstrom. Nor does it follow that this is undemocratic, provided we are willing to remove the blinkers and acknowledge that democracy might mean something more (and more noble) than supplying the most numerous and powerful groups in society with an unqualified capacity to impose their worldview on everyone else. May's analysis – and the background assumptions that it makes – thus reveals both an inadequate grasp of the function of human rights law and an unsubtle understanding of the nature of democracy.

Turning to her factual claim – that Parliament not only should, but does, have the last word on such matters – it transpires that May's grasp of the law is equally dubious. That claim is clearly implicit when she says that primary legislation will be enacted specifying that foreign nationals who commit serious crimes “shall, except in extraordinary circumstances, be deported”, and that it is “inconceivable” that judges would then think themselves “entitled to decide how to balance the foreigner's right to family life against our nation's right to protect itself”. But what would actually happen if such legislation were enacted?

Under the HRA, courts and tribunals would remain obliged (so far as possible) to interpret the new Act consistently with Article 8. One possibility, therefore, is that the judiciary would conclude that the new Act, once interpreted in that way, did not permit deportation in breach of Article 8. If such a construction were not possible, then national courts would be unable to stand in the way of “exceptional circumstances” deportations that contravened Article 8. But, in that scenario, the new Act would very likely be the subject of a declaration of incompatibility under the HRA and,