

## Call For Evidence Draft Voting Eligibility (Prisoners) Bill

The Joint Committee on the draft Voting Eligibility (Prisoners) Bill invites interested organisations and individuals to submit written evidence as part of its inquiry. A new Joint Committee has been appointed by both Houses of Parliament to conduct pre-legislative scrutiny of the draft Voting Eligibility (Prisoners) Bill. The Joint Committee comprises 6 MPs and 6 Peers. It will take oral and written evidence and make recommendations in a report to both Houses. The Joint Committee invites interested organisations and individuals to send written submissions by 5 pm on Thursday 13 June 2013 as part of the inquiry. The Joint Committee is particularly interested in receiving evidence on the three options for changes to the law set out in the draft bill. They are:

- a. Disqualifying prisoners sentenced to 4 years or more in prison from voting.
- b. Disqualifying prisoners sentenced more than 6 months in prison from voting.
- c. Disqualifying all prisoners serving custodial sentences from voting – a restatement of the existing ban.

Please state your opinion on all or any of these options giving clear reasons as to why you, or your organisation, hold that particular view.

The Joint Committee would also welcome evidence on whether approaches beyond these options should also be considered. Would also be grateful to receive evidence on the following specific questions. It is not necessary to address every question.

1. What are the historical and philosophical justifications for denying prisoners the right to vote?
2. Why is the right to vote considered to be a human right?
3. Is disqualifying prisoners from voting a suitable part of their punishment?
4. What are the financial implications of maintaining the current ban in terms of claims by prisoners for compensation?
5. Is sentence length a legally robust basis on which to retain an entitlement to vote?
6. What would be the likely legal consequences, both domestically and internationally of:
  - a) keeping the law as it is?
  - b) passing legislation giving some prisoners the right to vote, but in a way that maintains a form of blanket restriction?
  - c) seeking to comply by enfranchising the minimum number of prisoners possible consistent with our international legal obligations?
7. Would giving prisoners the right to vote have any significant administrative impact on either the prison system or the Electoral Commission?
8. Is there any evidence to suggest that allowing prisoners to vote would have a significant impact on particular constituencies?
9. What lessons can be drawn from experience of other countries regarding prisoner voting?

**Hostages:** Hostages: Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinane, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva, Terry Smith, Hyrone Hart, Glen Cameron, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, 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.

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## MOJUK: Newsletter 'Inside Out' No 426 23/05/2013

### Solicitor James Watson Attacks Police 'Vendetta' *Dave Higgins, Independent, 11/05/13*

A defence solicitor who secured more than £500,000 in damages from a police force after he was wrongly arrested says officers mounted a "vendetta" against him. Middlesbrough lawyer James Watson argued his arrest by Cleveland Police officers in June 2009 and the subsequent search of his home and offices was malicious and took legal action against the force. Now his lawyers have confirmed that the Cleveland chief constable has agreed to pay Mr Watson, his family and his colleagues a total sum of £550,000 in damages, plus costs.

Mr. Watson said: "Cleveland Police have wasted millions of pounds of public money on this vendetta against me. It spent three years investigating me when - as it now accepts - there was not a shred of evidence against me." He also criticised the Cleveland force for apparently allowing a senior detective to retire on a full pension rather than suspend him. He said that if the officer had been suspended, he could not have retired and could then have faced any potential disciplinary action. The solicitor said his treatment by the officers follows his involvement in a prominent criminal case. Following the defendant's acquittal, detectives decided to investigate whether he was involved in getting witnesses to change statements. "Why were Cleveland Police so desperate to have me convicted of a crime they never really believed I had committed? Was it just sour grapes at the police losing a high profile kidnap trial or did important and powerful people have other reasons to want rid of me?"

Mr Watson said he was arrested early in the morning on June 3, 2009, on suspicion of perverting the course of justice. He was taken to a police station and detained for twenty nine hours. His lawyers said the new chief constable of Cleveland, Jacqui Cheer, has now admitted that there were no reasonable grounds to suspect him of any offence and that he was falsely imprisoned. Mr Watson said that while he was in custody dozens of police officers spent over twelve hours searching his home and his solicitors' firm, Watson Woodhouse. He said they took away twenty six boxes of documents, which, he says, was outside the scope of warrants they had obtained. His wife and children were detained in their home while the searches took place. He said the chief constable has now admitted that they were falsely imprisoned. The sum of £550,000 includes £80,000 in exemplary damages - the maximum amount allowed. The chief constable has also agreed to pay Mr Watson's legal costs and to correct police records to confirm that "no vestige of suspicion" remains against Mr Watson, his family or partners.

In the wake of their inquiry, the IPCC recommended that Cleveland police suspend Chief Inspector Anthony Riordan, who led the investigation into Watson. But rather than suspend Riordan, Cleveland police's assistant chief constable Sean White allowed him to retire on a full pension. Riordan told Newsnight he "strongly refutes any allegation that he acted with anything other than professionalism and integrity".

In a statement, Jacqui Cheer chief constable of Cleveland said: "In 2010 Cleveland Police received six complaints which were the subject of a managed Independent Police Complaints Commission (IPCC) investigation. At the conclusion of the investigation four of these complaints were unsubstantiated, a fifth matter was a 'statement of fact' involving an officer from another force and the sixth complaint is subject of the settlement with Mr Watson. One of the officers under

investigation retired in October 2011, 12 months after the start of the investigation."

Jacqui Cheer said assistant chief constable Sean White considered the suspension of this officer in October 2011 "in accordance with the policy and practices of the force and based solely upon the information and evidence presented to him by the investigation team". Having fully considered the interim report of the IPCC investigator and having consulted with specialist advisers as well as inviting submissions to the suspension review process from key parties, ACC White decided that the conditions to justify suspension were not met. In smaller police forces senior police officers often make decisions about officers who work for them or with them. ACC White strongly refutes the claim that his decision was influenced or based upon anything other than the facts and evidence presented to him at the time of the decision making process.

The IPCC report recommends that I debrief and discuss with ACC White the process for making this decision, with the benefit of hindsight, which I have done, and I fully support him. I have accepted the recommendations within the report and have implemented changes." The chief constable said there is an ongoing managed IPCC investigation into new complaints submitted by Mr Watson and, therefore, it would not be right for her to comment further.

#### **Police Federation Advise Police Officers do Not Cooperate With IPCC**

A police officer has been given a final written warning after the Independent Police Complaints Commission (IPCC) upheld an appeal from a 65-year-old man who suffered extensive bruising when he was put in an arm lock and pressed on to a car bonnet. The IPCC directed Pc Kevin Payne from West Mercia police face a misconduct hearing over the incident.

The victim had been at a boxing event in Shrewsbury in 2011 when trouble broke out inside the venue. The man left with his family, including his grandchildren, and was waiting outside for a lift home when a police car pulled up next to him. He was grabbed and put in an arm lock after commenting on a police officer's driving, which he considered to be dangerous. He was not arrested but let go with Pc Payne telling him to "f\*\*\* off home". The man complained about his treatment but unhappy that West Mercia gave Pc Payne management advice over his swearing while failing to deal with the issue of excessive force, appealed to the IPCC.

The IPCC upheld the appeal and directed that the force should reinvestigate; recommending Pc Payne be issued with a notice for gross misconduct and interviewed again but under criminal caution. During the second investigation, though, Pc Payne, on the advice of the Police Federation, refused to be interviewed, which meant that sufficient justification for the use of force was not provided. The complaint was again not upheld by West Mercia.

The victim then submitted a second appeal to the IPCC, which was also upheld on the basis that there was a case to answer for gross misconduct. A direction that Pc Payne face a misconduct hearing was made by the IPCC. The hearing, carried out by West Mercia police, ended with a finding of gross misconduct against Pc Payne and a final written warning being given.

IPCC Commissioner for West Mercia Derrick Campbell said: "It is disappointing that this man was forced to go through the police complaints appeal process twice for something that could and should have been dealt with by West Mercia police the first time around. It is important that the public are reassured that the police service takes their complaints seriously and treat them in the appropriate way. It is also very disappointing to know that the Police Federation feel it is acceptable practice to encourage public servants to not cooperate fully with IPCC investigations. "The behaviour of the officer in this case fell well below that expected of police officers and resulted in a 65-year-old man receiving injuries that have caused him considerable pain and discomfort."

and - offender management was still developing, and although there was an enthusiasm to improve, the service had limited one-to-one engagement with prisoners and paid insufficient attention to risk reduction.- Inspectors made 100 Recommendations

Introduction from the report: Thameside is a local prison that is privately run (by Serco) and located next to Belmarsh and Isis prisons in South East London. Holding up to 900 adult and young adult male prisoners, this new establishment had opened in March 2012.

Information we received about Thameside suggested a need to bring forward our first inspection of this establishment and, as a consequence, we inspected the prison when it had been open for just 9 months. Our findings overall were very mixed and improvement was required for most aspects of the prison - in particular, safety, the provision of purposeful activity and meeting the resettlement needs of prisoners.

Prisoner's reception into custody was reasonable if a bit chaotic and our survey findings suggested prisoners felt safe. Levels of assaults however, were too high and of concern - prisoners seemed to lack confidence in what in fairness was an inexperienced staff group, to deal with and protect them from violence or delinquency. In the autumn, and as an operational response to rising levels of violence the prison had taken the unusual step of effectively locking down the prison, severely curtailing the regime and in particular prisoner access to time unlocked. The prison had done little to evaluate the success of this quite extreme strategy and at the time of our visit there seemed only vague plans to restore the prison to normality.

There was evidence that the prison had to do more to ensure that security measures were always applied proportionately. Use of force was reducing but remained high, as did use of segregation. Prisoners at risk of self-harm were reasonably well cared for, and detoxification arrangements were developing although not sufficiently integrated.

The quality of accommodation throughout the prison was excellent, and the innovative use of inter-active technology in each cell had great potential to improve the experience of prisoners. Staff-prisoner relationships were very good, although the attitude of some nurses in health care required improvement, as did other aspects of health care provision. Prisoners from a black or minority ethnic background made up well over half the population and in our survey reported similar perceptions to white prisoners. However, the promotion of diversity generally, and in respect of other minority groups of prisoners, was poor.

The prison's regime was one of the most restricted we have ever seen. Time out of cell was very limited. We found 60% of prisoners locked up during the working day, and some spent 23 hours a day in their cells. There were far too few activity places for the needs of the population, and much of the provision required improvement. There was too little vocational training, and most of the work available was low skill.

Offender management was still developing. Case managers needed better training and smaller case loads. We observed an enthusiasm to improve but a service that was still too reactive, with limited one-to-one engagement of prisoners and insufficient attention to risk reduction. Resettlement services were still developing, which was of concern in a local prison with many short-term prisoners released into the community. All prisoners were assessed upon their arrival but service provision across most of the resettlement pathways and discharge planning were very limited. Services to support family contact were a strength. As an Inspectorate, we are increasingly visiting institutions that are experiencing transition for one reason or another. The early development of a prison during its opening phase is both critical and demanding. The challenges that management and staff in Thameside had faced in bringing stability to this prison were clearly evident. The opening process had been hard work and very tough. There remained some big gaps at the prison and there was

years." The pair now plan to set up The Mae Foundation to advise people in similar situations.

Last week, City of London police raided their flat and arrested them for using false documentation, seizing many case documents. Mrs Mae said: "We were arrested and bailed. You get the feeling that they will do anything to stop us. We were contacted by the Commissioner and told to drop the case. We haven't and I hope our win is not taken away from us." The Maes are being represented by a barrister, Matondo Mukulu, who told the Standard that his clients "did well to have brought their claims thus far and to have won at the first round".

The Met refused to comment on the case. *Emer Martin, London Evening Standard, 13/05/13*

### **Etta Lopez Deliberately Hits Policeman to Quit Smoking** *WJLA.com 11/05/13*

California - Think you've heard of every way possible to quit smoking? Etta Mae Lopez came up with a new one: slap a cop so you'll go to jail, where smoking isn't allowed. Lopez smacked Sacramento County sheriff's Deputy Matt Campoy in the face Tuesday as he left the main jail at the end of his shift. He grabbed her and took her inside the jail, where she slapped his arm as soon as he turned her loose. Once she was handcuffed, the 5-foot 1-inch Lopez told Campoy she picked him because he was in uniform and she wanted to make sure she struck a law enforcement officer. "She waited all day for a deputy to come out because she knew if she assaulted a deputy she would go to jail and be inside long enough to quit her smoking habit," Campoy told The Sacramento Bee. The deputy said he tried to sidestep Lopez as he left the jail through the usual gathering of family members who linger outside the facility a few blocks from the state Capitol. "I stepped to the left again and she suddenly stepped into me and slapped my face," he said. "I've been telling everybody that I have a new Irish name: Nick O'Derm."

Lopez, 31, pleaded no contest to misdemeanor battery on a peace officer and was sentenced Thursday to 63 days in jail, with credit for the three days she served this week, said Shelly Orio, a spokeswoman for the county district attorney's office. Lopez also was sentenced to five days for violating her probation from a 2010 drunken driving conviction. Among the conditions included in her sentence: an order to have no contact with deputies.

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

Inspection 14–17 Jan 2013 by HMCIP, report compiled March 2013, published 11/4/05/13

Prison privately managed by Serco: Findings from its first inspection, which took place when it had been open for nine months, were very mixed and improvement was required for most aspects of the prison – in particular, safety, the provision of purposeful activity and meeting the resettlement needs of prisoners. In autumn 2012, as an operational response to rising levels of violence, the prison had effectively locked down the prison and severely curtailed the regime and prisoner access to time unlocked. The prison had done little to evaluate the success of this strategy. Nick Hardwick

Inspectors were concerned to find that: - levels of assaults were high and prisoners seemed to lack confidence in an inexperienced staff group to deal with violence or delinquency; - use of force was reducing but remained high, as did use of segregation; - the prison's regime was one of the most restricted inspectors had ever seen, and time out of cell was very limited; - inspectors found 60% of prisoners locked up during the working day and some spent 23 hours a day in their cells; - there were far too few activity places for the needs of the population and much of the provision required improvement; - although resettlement services were developing, provision across most of the resettlement pathways was very limited;

### **Prisons: Factories of Hate**

John Bowden, 6729, HMP Shotts

Right-wing Tory Justice Minister Chris Grayling's declaration in late April that prisoners would now be made to "earn" basic privileges by "working harder" probably wasn't just the usual "populist" promise to stick the boot into one of the most powerless and demoralised social groups. During times of economic austerity and potential social unrest scapegoating marginalised and outcast groups like prisoners, is always useful as a means of deflecting and re-focusing public anger away from the true culprits of the country's economic ruination, in this case Grayling's pals in the city of London. Behind the rhetoric and the guise of "getting tough" on prisoners is the actual purpose of the prison industrial complex: to turn prisons into privatised forced-labour factories.

Prisoners are, it seems, to become like third-world workers, a source of extremely cheap and compliant labour for multi-national corporations, a practice which of course draws its inspiration from the U.S. Where one of the largest prisoner populations in the world have increasingly replaced outside unionised labour as a source of profit. Under the U.N. Charter of Human Rights forced labour is of course unlawful, but prisoners don't seem to count, and during times of economic crisis and a burgeoning prison population there is a cold rational in the capitalist intention to focus its rapacity on those behind bars.

It also harks back to the original purpose of the Victorian-inspired model of what was then a modern prison system: to instil conformity and the work ethic in the rebellious poor. After decades of the control and containment model prisons are to be returned to their original function as places where the errant poor are taught their true place as producers of profit for the rich.

Of course the tabloids who cheer Grayling's "get tough" treatment of prisoners and whip-up mob support for him omit to mention or question why prisoners are being forced to do work that its unemployed readers could be invited to do on a legally-enforced minimum wage? And whilst large corporations and companies constantly "rationalise" their operations by shedding labour and creating unemployment, some of these same companies are using prison cheap labour to top-up profits, all with the willing assistance of Grayling and his rich and powerful colleagues in the Tory government.

Not only is prison slave-labour an absolute negation of the basic human rights of prisoners, which Grayling has now prevented any legal challenge to from within jails by stopping legal aid for prisoner litigation cases, but also the removal of a means of employment for many of those outside prison who are influenced by the lies and witch-hunting of the tabloids and an increasingly right-wing political establishment. Grayling should also ponder this: forcing a slave-labour regime as a condition for basic privileges on prisoners serving increasingly longer sentences might just be a catalyst for some extremely expensive prison repairs further down the line.

### **Whilst Wearing a 'Jail Sucks' T-Shirt, Arrested then Jailed for Fraud**

Don Castner was already in danger of arousing the suspicions of the fashion police. But the 39-year-old Floridian got a taste of delicious irony when he was arrested Wednesday 01/05/13 by the actual police wearing a T-shirt that read, "jail sucks!". Arrested on charges of welfare fraud as part of a Manatee County sheriff's undercover sting 'Operation Meal Ticket'. Manatee deputies arrested 40 people and have warrants out for dozens more. Castner is accused of selling Electronic Benefits Transfer (EBT) cards to undercover agents. Manatee Sheriff Brad Steube said some of the people caught in the sting said they were using money from selling the cards to buy "rock cocaine, drugs and alcohol." After he was arrested and booked, Castner was forced to ditch his ironic T-shirt for more traditional prison garb and a mug shot.

Supposedly exceptional sentences for exceptional crimes create an inflation that cascades throughout the prison system. Posturing by a previous home secretary over the death of a policeman eventually led to the abolition of the mandatory death penalty for murder. David Maxwell-Fyfe's refusal to pardon Derek Bentley led to an injustice so grave that something had to give, though not before the state had strangled a mentally disabled teen who never fired a shot. Theresa May, desperate to make peace with the bobbies who booed her last year, has proposed a new mandatory sentence for killing a cop, which might be described as death by incarceration. The idea of automatic life without any possibility of parole brought MMay a brief moment of favour at the Police Fed, but as policy it is objectionable in principle and will prove ineffective in practice.

The assumption that taking the life of a police officer is always worse than taking any other life does not fit well with Robert Peel's ideal: that the police are the public, and the public the police. But for anyone with any feeling for penal reform, there is always a deeper objection to throwing away the key, and with it the possibility of redemption. Public safety might turn out to require that some of the few dozen Britons already on "whole life" orders do indeed remain in prison until the end of their days; the objectionable thing is for the state to close its eyes in advance to all evidence about whether a criminal remains a threat, by binding its own hands against ever reviewing whether the interminable detention remains necessary. Barring a handful of cases in the Netherlands, no other European state deems it necessary to snuff out all hope of release. Even Pakistan and China retain some provision for review of the longest jail terms. The home secretary should reflect on the sort of company she wants England and Wales to keep.

From the angry impulse to put retribution ahead of all other concerns, practical problems inexorably flow. One whole-life prisoner, Douglas Vinter, wrote, after being involved with a stabbing on the inside, that he "said to the governor ... just give me another life sentence for my collection. They don't mean anything any more." That chillingly sums it up. Do away all with hope and, in an important sense, you also do away with fear. Even before the question of how prisons can manage lags in such circumstances, there is the question of how a judge can do justice with tied hands. That Bentley conviction under joint enterprise – for supposedly encouraging his younger accomplice, Christopher Craig, to "let him have it" – demonstrates that moral culpability is not always the same, even among those found technically guilty of murdering a policeman.

Supposedly exceptional sentences for exceptional crimes create an inflation that cascades throughout the prison system, as has been amply demonstrated over the last 20 years, during which Britain's prison population has doubled, rising irrespective of occasional political pledges to curb use of short prison spells for petty offences. The effect reaches its repugnant conclusion in the US, where approaching 50,000 now pass their days at the state's expense without any distant hope of release, crossing off dates on the calendar until the grim reaper arrives. This barbarous state of affairs should appal an administration that was once proud to call itself liberal conservative, and had initially seemed determined to get a grip on mass incarceration.

No longer, however, and the shame is all the greater for the Lib Dems, who previously made it a point of pride to challenge unthinking penal populism: in previous manifestos they bravely swore to scrap all mandatory sentences. Acquiescence in a technically flawed economic policy is one thing, but by going along with Mrs May's illiberal wheeze they invite searching questions about what on earth their party is for. Labour says the detail will be important, a half-nod to the ongoing case in Strasbourg that could yet rule against unconditional whole-life detention, but on the principle, it is ultimately equally craven.

day and will not be allowed to watch television when they should be engaged in work or other purposeful activity. They will have to earn the right to wear their own clothes and spend money brought into the prison for them. The key earnable privileges, which must be included in local IEP schemes to the extent deemed appropriate for the different privilege levels, are: Extra and improved visits / Eligibility to earn higher rates of pay / Access to in-cell television / Opportunity to wear own clothes / Access to private cash / Time out of cell for association In addition to the key earnable privileges, establishments may make other privileges and incentives available to suitable prisoners according to local circumstances.

**Swept Away: Abuses Against Sex Workers in China***Human Rights Watch*

China's punitive laws and policing practices against sex workers are leading to serious abuses, including torture, beatings, physical assaults, arbitrary detentions, and fines, as well as a failure to investigate crimes against sex workers by clients, bosses, and state agents; Human Rights Watch said in a report published 13/05/13. These abuses include , arbitrary detention of up to two years in "re-education through labor" and "custody and education" centers, and coercive HIV testing, privacy infringements, and mistreatment by health officials.. There are an estimated four to six million sex workers in China, the overwhelming majority of them women.

"In China, the police often act as if by engaging in sex work, women had forfeited their rights," said Sophie Richardson, China director at Human Rights Watch. "The government must abandon its repressive laws against sex workers, discipline abusive police, and end the suppression of sex workers rights advocates." The Chinese government has allowed the unchecked growth of the sex industry in recent decades, with millions of women turning to sex work as a way of earning a living. Yet the government maintains officially a blanket ban on sex work, viewing it as an "ugly social phenomenon" that goes against "socialist spiritual civilization," and treating it as a misdemeanor punishable by fines or short-term detention.

During periodic "anti-prostitution drives," often lasting several weeks and linked to larger "strike hard" campaigns against crime, police repeatedly raid entertainment venues, hair salons, massage parlors, and other spaces where sex work occurs, detaining large numbers of women suspected of being sex workers. Sex workers are most at risk of abuses such as police brutality and arbitrary detention during these drives. Domestic activists working on rights for Chinese sex workers have also denounced these police raids.

**Mother & Son Racially Abused by Policeman 4-Year Justice Fight**

A mother and son who were racially abused by a policeman revealed today that they had to teach themselves law because they couldn't find a solicitor who would take on the Met. Dwain Mae, 23, and his mother Andrea were called "black bastard", "black pig" and "n\*\*\*\*r" during a routine stop and search in Streatham in 2009. Last October they were awarded £7,000 damages at Lambeth county court. The Met was allowed to appeal, and a decision on the case is due on Thursday. "The case has gone to appeal, but we don't care," said Mrs Mae. "This is not about the money, it is to encourage people to come forward if they have suffered in the same position."

Mr Mae, a student at the University of West London, said: "We tried to find a lawyer to represent us, but no one would take the case. We were willing to pay someone, but everyone we approached refused to take on the Met. So we decided to do it ourselves. "Me and my mum started going to libraries and taking out law books. She would read for five, six, seven hours a day and once I got home from college I would take over. We would fall asleep on the books, and we did that for three

the defence. "If there is action by the police either inappropriate or unlawful, past or future, there is a clear remedy open to the defendants," he added.

But Mr Macdonald expressed concern that the application would not be heard until October, when the appeal itself is now scheduled to begin. "This is unprecedented in my experience," he told the three-judge panel. "The outcome is going to be that the police have been successful in having this case adjourned for five months, during which time they are able to continue the process they started a week or so before the (original) appeal hearing." He added: "In the absence of any measures to provide independent oversight of this investigation then the court itself will have exposed itself to a possible liability for breach of Article 6 (right to a fair trial) because the court is the public authority for supervising the appeal process which we say has been subverted by the police." The case was adjourned for a further review next month.

#### **Joint Enterprise: Loyalist Appeals Evidence Used In Murder Conviction** *BBC News,*

A loyalist trying to overturn his conviction for a sectarian murder is to challenge the decision to let a later killing feature in his trial. Lawyers for Bobby Rodgers, 59, of Tierney Gardens, Belfast, are focusing on the admission of bad character evidence.

Palm print evidence will also be contested at his appeal over the murder of Catholic teenager Eileen Doherty in 1973. The case will be heard in September. Ms Doherty, 19, was shot three times after her taxi was hijacked by gunmen in south Belfast. Although not suspected of firing the fatal shots, he was found guilty of a joint enterprise to murder.

Rodgers has already served 17 years in prison for the killing of a Catholic man a year later. Ciaran McElroy, 18, was shot a number of times in September 1974 on Park End Street, Belfast. Despite receiving a further 16-year sentence for Ms Doherty's murder, Rodgers could be freed after two years under the terms of the Good Friday Agreement. However, his lawyers have launched legal moves aimed at securing a swifter release. They are pressing ahead with an attempt to have him freed under the Royal Prerogative of Mercy.

Alongside that an early hearing to challenge his conviction was listed in the Court of Appeal on Friday. Following the confirmation Rodgers' solicitor outlined his concerns about the case. He said: "At trial the court allowed in bad character evidence in relation to an incident a year later. We say that needs challenged.

We also have major concerns about the print evidence used in this case, given that material in relation to it has since been destroyed or gone missing." The solicitor was accompanied by William 'Plum' Smith, a loyalist involved with ex-prisoners' project EPIC, who claimed Rodgers suffered "a gross miscarriage of justice". Mr Smith added: "Recent decisions made in the courts lends substance to the belief that the Protestant community have been treated unequally."

#### **Prisons: Discipline**

*[House of Commons / 16 May 2013 : Column 338W]*

Priti Patel: To ask the Secretary of State for Justice what types of rewards are afforded to prisoners; and whether prisons have a minimum criterion for the requisite level of prisoner behaviour before distribution of such rewards.

Jeremy Wright: We announced changes to the Incentives and Earned Privileges (IEP) scheme on 30 April. Prisoners will now have to contribute actively to their own rehabilitation, help others and continue to behave well if they are to earn privileges above the basic level, rather than simply avoiding bad behaviour. Convicted prisoners will have a longer working

Like so many American lifers, reason and reform are left utterly abandoned by Westminster.

#### **Rehab Revolution: 'At Best Ineffective, At Worst A Dangerous Experiment'**

'Reoffending rates in this country have been too high for too long,' said the Justice Minister Chris Grayling in a statement to the Commons. 'Almost half the number of offenders released from our prisons offend again within a year. This depressing merry-go-round of crime has a dreadful impact on the lives of law-abiding, hard-working people.' Grayling was confirming plans announced in the Queen's Speech for a probation overhaul, including making sure all offenders released from prison in England and Wales will receive a minimum period of supervision.

Currently, those on short sentences leave prison without any supervision at all, and only a £46 release grant in their pocket. But this latest phase of the government's 'rehabilitation revolution' means that all 85,000 prisoners in England and Wales will face a period of at least 12 months of statutory supervision and rehabilitation when they leave prison for the first time.

Grayling's Offender Rehabilitation Bill will also introduce powers to require released offenders to undergo compulsory drugs tests for cannabis while they are living in the community under supervision. Those who test positive will face penalties and be required to attend appointments with drug treatment services. Offenders will also have to comply with a programme of support on housing, training and alcohol treatment, and there will be a new emphasis on using reformed offenders to act as mentors to those newly released from prison. Those who fail to comply will face being returned to jail. 'Those who break the law need to be punished,' the Lord Chancellor said, 'but I also want to see them get their lives back on track, and that requires a thorough and thoughtful approach.'

Grayling also plans to address the 'disconnect between what happens in prisons, and what happens on the outside' by creating a 'genuine, through-the-gate service'. The current 130 prisons in England and Wales are to be reorganised, with 70 moving into a national network of resettlement prisons. Offenders will be released into the local area where their rehabilitation and supervision programme is to take place and will be banned from moving to other parts of the country without permission. 'At the moment, we move far too many prisoners all over the country in a fairly haphazard way... We are, for the first time, creating real continuity between custody and community, bridging the gap which right now just leads many offenders back to a life of crime.'

With almost half the number of offenders released from prison offending again within a year, rising to 58% for those sentenced to prison terms of less than 12 months, the move to cut crime by focusing on rehabilitation has been widely welcomed. However, with no money to provide these services in the public sector, Grayling has adopted a Thatcherite approach to deliver his plans – dismantling the public probation service and inviting private companies and the voluntary sector to bid for the work.

At least 70% of probation work will be opened up to privatisation, with the public probation service restricted to supervising high-risk offenders. The probation service in England and Wales is to be divided into 16 regional contract areas with bids invited from private and voluntary sector providers to supervise 140,000 medium and low-risk offenders. Payment-by-results represents a 'cornerstone' of the reforms and, according to Grayling: 'Our plans will use competition to drive greater efficiency, which is vital to free up the resources we need so that we can extend rehabilitation to a wider group of offenders.'

The notion that this work is available for the voluntary sector to take on, and that 'reformed old lags' will be able to help out fits in conveniently with Cameron's Big Society concept. It is, however, doubtful that responsible charitable trusts will be committing wads of cash to a

payment-by-results mentoring scheme for ex-offenders without good evidence that it can get those results. That leaves only the companies with large cash reserves open to the bidding process; and so we welcome the likes of G4S and Serco into the realm of probation.

People coming out of prison will often have a range of complicated problems – issues around mental health, drug and alcohol abuse, violence, literacy, housing, employment. Giving them the best chance of staying out of trouble requires committed and highly trained professionals to work efficiently and effectively. With Grayling's contracts worth between £5 and £10 billion over 10 years, the risk of corruption and abuse by providers who will only receive payment if they can show the work has directly resulted in reductions in reoffending is high. We have all witnessed the problems of NHS privatisation, the incompetence of the G4S Olympics fiasco and the colossal failures of the work programme, where doing nothing would have been more effective than investing billions in private-sector companies. As former prison governor John Podmore put it in an article for [www.thejusticegap.com](http://www.thejusticegap.com) '[probation] is work that cannot be done effectively on the cheap by an evanescent group of amateurs.'

Karl Turner MP labelled the plans 'bonkers' and Andy Slaughter, Labour MP for Hammersmith, criticised the policies as 'ill-thought-out', with a 'total reliance on untried payment-by-results methods' put in place to benefit the Secretary of State's 'old friends' Serco and G4S. Ben Priestley, UNISON National Officer for Probation Staff, said the decision to break up and privatise the probation service 'will come back to haunt' this government. 'At best it will prove ineffective and at worst a dangerous experiment that will put the public at risk,' he added. Support for vulnerable people should not be delivered on a profit making basis. The irony of the 'rehabilitation revolution' is that valuable know-how is likely to be lost in the privatisation process, which may well lead to even higher rates of reoffending.

#### **IPCC Criticised for Errors In Investigation Into Sean Rigg Death** *Vikram Dodd, Guardian*

The police watchdog made a series of errors in an investigation that cleared officers over the death of a man in custody, an independent report has found. And says it can no longer stand by report that cleared officers over death of Sean Rigg after review finds series of mistakes Sean Rigg, 40, died after being restrained and arrested in 2008 in south London. An investigation by the Independent Police Complaints Commission (IPCC) ruled that officers had acted reasonably and proportionately.

An independent review tore those conclusions apart on Thursday and found that the commission had blundered. The IPCC said it could no longer stand by its original findings and accepted the review in full. The review was ordered after an inquest jury last year found that police used unsuitable and unnecessary force against Rigg, with officers failing to uphold the detained man's basic rights, and with police actions contributing to his death.

Three officers are currently under criminal investigation over evidence given to the inquest, and it was left to the Rigg family, assisted by the deaths-in-custody charity Inquest, to uncover CCTV footage contradicting one officer's account. All this was missed by the first inquiry, which was found to have committed blunder after blunder, assisted by errors by the police and "inappropriate conduct" by the Police Federation.

The review, led by the criminologist Dr Silvia Casale, criticised the IPCC for accepting accounts from officers that were "improbable" and "implausible". Officers were allowed to confer with each other before making initial statements to investigators. During interviews by the IPCC, officers were accompanied by representatives from the Police Federation. The

conduct. They must also understand the importance of drawing the court's attention to any concerns they have about it. The internet has some advantages here: it is possible to obtain incontrovertible evidence **Pink Panther Thief Among Escapees in Dramatic Prison Break**

Five prisoners – one Frenchman, an Albanian, a Bosnian, a Kosovar, as well as Serbian member of the 'Pink Panther' gang of jewel thieves – made a dramatic escape from a Swiss jail, using weapons passed from accomplices on the outside to threaten guards, before scaling the prison walls. At around 10:20am local time, they were in the walled in courtyard at the Bois-Mermet prison on the outskirts of Lausanne with some 30 other inmates when three masked accomplices on the outside climbed a ladder and threw a bag filled with weapons and other items into the yard. Grabbing the gun from the bag, the five men threatened the other detainees and the guards and sprayed them with some kind of irritant to keep them away as they used pliers from the bag to cut a hole in the fence blocking their access to the prison wall, which they then climbed using a ladder provided by their accomplices, police said. A sixth inmate tried to follow them, but guards managed to hold him back as he was climbing the ladder. The escapees and their accomplices fled the scene in two vehicles.

#### **Paul Wootton and Brendan McConville: Police to Answer Sabotage Claims**

Police are to give evidence over an alleged attempt to sabotage appeals by two men jailed for murdering Constable Stephen Carroll, who was shot dead as he responded to a 999 call at Lismore Manor, Craigavon, in March 2009. A court has heard. Lawyers for John Paul Wootton and Brendan McConville have claimed the PSNI tried to stymie the legal process by detaining a new witness.

Both men are appealing their murder convictions. On Wednesday 15th May, senior judges were told covert surveillance recordings are set to be examined. Details emerged as a bid to secure independent oversight of the ongoing police investigation was put back until October. Days before their joint appeal was due to get under way last month, a man related to a key prosecution witness was arrested and held for two days before being released without charge. This man has made a sworn court statement branding his relative a compulsive liar.

According to defence lawyers, police arrested him in a bid to pressure him into withdrawing his evidence, and warned he would be discredited if he testified. They want the Court of Appeal to direct independent oversight of this aspect of the investigation. One option would be for the Criminal Cases Review Commission to intervene, while a separate request has been made to the Police Ombudsman to look into allegations of misconduct.

In court Barry Macdonald QC, for McConville, said: "It's our case that police have manipulated and subverted the appeal process." The issues to be decided in the defence application include: Was the surveillance operation properly authorised under laws governing the use of covert techniques? Was the arrest of the new witness lawful and necessary? Was there any attempt to persuade or coerce him to alter his evidence? Has there been any police manipulation of the process? If so, what are the consequences? Mr Macdonald confirmed his intention would be to call the new witness and at least one solicitor to testify.

Ciaran Murphy, for the Public Prosecution Service, told the court all police officers who either decided to make the arrest or carried it out would be expected to give evidence. All interviews and recordings should be gone through as well, in a process which could take days, he suggested. Dealing with the covert material, Mr Murphy said he was satisfied proper authorisation was obtained. He acknowledged the Police Ombudsman appears to have the power to look into a live investigation, but the barrister was unable to give undertakings sought by

· Ensuring that the IPCC has and can use all the powers it needs to act independently and robustly; welcoming Ministers' commitment to legislate to fill some current gaps · Capacity to undertake more independent investigations and to carry them out thoroughly and in a timely way · Greater capacity to oversee the police complaints system and improve the way complaints are dealt with · Identifying themes and ensuring that lessons from our work feed into improved practice; working with other oversight, accountability and standard-setting bodies. It also sets out three other elements that need to be in place: Sufficient capacity and skills within police forces' own professional standards departments to monitor, train and act on integrity issues · More radical reform of the complaints system, which is complex, bureaucratic and slow · A review of police disciplinary processes to make them more transparent and introduce a greater element of independence.

### **Verdict On Juries: Placing Blind Trust In Them Helps No One**

*Joshua Rozenberg*

Almost a quarter of jurors in England and Wales currently misunderstand the restrictions on internet use during a trial, according to research just published. A significant number, 16%, wrongly believe they are not even allowed to check their emails while they are on jury service. On the other hand, and more alarmingly, 5% believe there are no restrictions at all on internet use during a trial while 2% believe they can look for information about a case so long as they don't let it affect their judgment. Jurors are routinely told that they must not do their own research on the cases they are trying. Last year, a juror was given six months' imprisonment because she had searched online for information about the defendant. But jurors are perfectly free to check their emails and conduct other business online when they are not sitting in court or deliberating.

Latest findings were obtained by Professor Cheryl Thomas, director of the jury project at the University College London law faculty. Her team spoke to 239 jurors after they had returned verdicts in 20 different cases tried in London over the past year. Contrary to popular myth, such research is not prohibited by the Contempt of Court Act 1981 — which applies only to jurors' "deliberations". Presenting her findings in the forthcoming issue of the Thomson Reuters journal *Criminal Law Review*, Thomas says they demonstrate that decisions about jury trial in the internet age should be based on empirical evidence. In its absence, the debate has become polarised around two extreme positions, neither of which she regards as justified. Those who might prefer to see an end to jury trial argue that it is impossible to stop jurors obtaining information from the internet. Those who are opposed to media restrictions argue that we should simply "trust the jury" to decide cases on the evidence. "Blind trust in juries is not just misguided," Thomas writes, "it is not what juries want themselves. The research reported here has shown that jurors are clearly asking for more and better guidance to do their job, they are being clear about what they want and they are being clear that they want it in written form."

They certainly are. Of those who received written directions from the judge, every single juror found them helpful. Of those who did not, 85% said they would have liked them. But a disturbing large proportion — 82% of those questioned — said they would have liked more guidance on how to conduct their deliberations. This figure is up from 67% in 2010, when Thomas last researched the issue.

Asked what sort of guidance they needed, jurors mentioned advice on what to do if they were confused about a legal issue; how to ensure that no one was pressured into giving a verdict; and what to do if something goes wrong. Three-quarters of those questioned said they would tell a court official or the judge if another juror admitted finding information about the defendant that had not been disclosed in court. But 14% said they would not feel comfortable about doing anything at all.

As Thomas says, it is crucial to trial by jury that jurors understand what amounts to improper

review said: "When one of the four police officers involved in the arrest was asked whether Mr Rigg's demeanour seemed normal, the [federation] representative interrupted repeatedly, including asking: 'What's normal?' The review considers this inappropriate."

Examples of interference by the federation highlighted by the review included answering questions on behalf of officers and asking inappropriate questions that gave covert assistance to the officers being interviewed. Found IPCC "interviewers at times appearing hesitant to put to the police officers fundamental questions about how they exercised their duty of care". It also found the IPCC had a "malaise" about racial issues and that its investigation was too soft in challenging police accounts. Described as "implausible and improbable" accounts from officers that Rigg had not said a word while in their custody and while being taken to the police station. Added: "The four officers described Mr Rigg as spinning around, rotating or 'walking his legs' around the cage walls, as he lay on his back in the footwell, with his hands cuffed behind his back. The review considers that such spinning or rotating would be impossible in practice, given the internal dimensions of the cage." The review even hired an expert in break dancing to see if Rigg could have rotated in the way police claimed.

The review found that an IPCC senior investigator had checked the police national computer records of two members of the Rigg family, after they were passed over by the Met. The review said this was wrong and "may have been in breach of data processing principles". It also criticised the decision to allow officers to confer before giving their initial accounts. In future cases of death in custody cases, the review recommends It said: "The arresting police officers should have been separated and instructed not to speak or otherwise communicate with each other about the events until the IPCC was able to take detailed initial statements from each." Casale said: "We found that the IPCC investigation and report concerning the tragic death in custody of Sean Rigg in 2008 should have been more robust, in particular as regards its pursuit of lines of inquiry and critical analysis of the evidence."

Marcia Rigg, sister of Sean, said: "This report shows just how badly we were failed by the IPCC, not to mention the police. It is frightening to think that in the intervening years, as we struggled for justice, more families will have been failed in the same way. We hope that a complete re-investigation of the issues identified by the review, with new consideration of police misconduct and criminal proceedings, will take place as quickly as possible. And the police and the Police Federation need to sit up and take notice of this report and get their own houses in order rather than obstructing the IPCC in its statutory role."

The IPCC said it accepted the review's findings, could no longer stand by the findings of its first investigation and would consider reopening its investigation to examine misconduct charges. Chair, Dame Anne Owers, said: "I will be working with commissioners and staff to ensure that those lessons are put into practice. I am encouraged by the fact that many of the concerns expressed by Dr Casale, her team and the Rigg family have also been voiced in discussions among our own staff and commissioners, as well as by other external stakeholders."

Two officers are under investigation over their evidence to the inquest and to investigators and have been arrested on suspicion of perjury and perverting the course of justice. One of those Sergeant Paul White, claimed at the inquest to have checked on Rigg while he was detained in a police van, CCTV evidence showed no such visit. The officer later admitted what he said was not true. The other officer under investigation is Constable Mark Harratt. A retired PC has been arrested on suspicion of perverting the course of justice. All three are on bail.

The Independent Police Complaints Commission (IPCC) will re-examine whether the

five officers involved in the arrest and detention of Sean Rigg, a 40-year-old musician who died shortly after being arrested, five years ago, were guilty of misconduct.

### **Sean Rigg's Death Must be the Catalyst for a Reform in Policing**

Officers must be held to account when there's a death in police custody if the force is to regain the public's trust: The main role of the Independent Police Complaints Commission (IPCC) is to bring the full facts to light when independently investigating a death in police custody. The IPCC has come in for severe criticism on many occasions but never more so than in last week's independent review of its investigation into the death of Sean Rigg.

Led by criminologist Silvia Casale, the report is a damning indictment of the IPCC's failings. Among its findings are that investigators failed to control events at the outset, allowing police officers to confer when writing their initial accounts, and there was a shrugging acceptance of "implausible" police accounts of Rigg's behaviour and "improbable" assertions that he didn't appear mentally ill. It is refreshing and welcome in the light of this damning indictment that the chair of the IPCC, Dame Anne Owers, promises to implement all the review's recommendations. However, it beggars belief that the IPCC has agreed to adopt basic investigative practices only in the 10th year of its existence.

Inquest, the charity that worked with the family of Sean Rigg, has pointed out his is not an isolated case. This is indicative of broader systemic problems that must be addressed, beginning with the implementation of Casale's recommendations.

The Casale report is a watershed for the police service and the IPCC: the former must systematically drag police practice up to an acceptable level when providing adequate care to vulnerable people and eliminating the disproportionate use of force and restraint; while the IPCC must fearlessly hold all concerned properly to account whenever someone dies or is seriously injured in police custody.

Confidence in the police and the police watchdog is already at its nadir. Positive action has to be the only way forward.

*Editorial: The Observer, Sunday 19 May 2013*

### **Home Secretary Pays £40,000 To Immigration Detainee**

The Home Secretary has agreed to pay damages of £40,000 to a mentally ill man detained under immigration powers over 19 months. Jed Pennington of Bhatt Murphy acted for the Claimant. The Claimant, whose identity is protected by an anonymity order, issued judicial review proceedings on 26 July 2012. In the face of an order for an expedited hearing, the Home Secretary agreed to release the Claimant and he was restored to his liberty on 9 August 2012. The Home Secretary also conceded that the claim was arguable and permission was granted by Mr Justice Burton in December 2012. The matter was due to be heard at a full judicial review hearing on 10-11 July 2012; however settlement terms have now been agreed with the Home Secretary agreeing to pay the Claimant £40,000 damages as well as his legal costs.

### **Inmates With Mental Health Problems - High Rates Of Sexual Victimization**

USA: Prison and jail inmates identified with mental health problems reported higher rates of inmate-on-inmate sexual victimization than inmates without a mental health problem, according to a study released by the Justice Department's Bureau of Justice Statistics (BJS). An estimated 6.3% of prison inmates and 3.6 percent of jail inmates identified with serious psychological distress reported inmate-on-inmate sexual victimization compared to 0.7 percent for both prison and jail inmates without a mental health problem. Inmates who had been told by a mental health professional that

they had a mental disorder reported higher rates of inmate-on-inmate sexual victimization (3.8% in prisons and 2.9% in jails) than other inmates (0.8% in prisons and 0.6% in jails).

### **Wrongly Convicted Man Wins Multimillion-Dollar Judgment**

*Hal Dardick, Tribune*

Nearly nine years after being freed from prison, where he served 17 years for a double murder in the Downstate city of Paris before being freed for lack of evidence, Gordon "Randy" Steidl has won a second multimillion-dollar judgment in his case against the people who put him behind bars. A federal judge entered a \$3.5 million agreed-upon judgment in a long-running wrongful conviction and malicious prosecution case against former Paris Police Chief Gene Ray, former lead detective James Parrish and former Edgar County State's Attorney Michael McFatridge. Steidl also had sued the Illinois State Police. The state settled that portion of the suit in October 2011 for \$2.5 million. So the total award for Steidl was \$6 million. But the state has refused to defend McFatridge, who was accused of fabricating evidence against Steidl, so a battle remains over who will pay \$1.6 million of the judgment, said Flint Taylor, one of Steidl's attorneys.

Taylor called the settlement one of the largest in a wrongful-conviction case in central Illinois. "I think it affirms what the evidence has shown, which is that Steidl was innocent of the crime which he was convicted for and that he suffered terribly for being wrongfully convicted," he said. In the settlement agreement, none of the defendants admit wrongdoing.

Steidl was initially sentenced to death and served a dozen years on Death Row. He was freed in May 2004, after a federal court granted him a new trial and Illinois Attorney General Lisa Madigan declined to retry him. Nearly four years later, onetime co-defendant Herb Whitlock was released from prison, after an appellate court overturned his conviction. Both were convicted in separate trials of the July 6, 1986, murders of newlyweds Karen and Dyke Rhoads — whose murders remain unsolved.

Critics of the prosecutions, including a former State Police lieutenant who probed the case, concluded Steidl and Whitlock were railroaded by police and prosecutors who put lying witnesses on the stand. Whitlock last year settled his case for an undisclosed amount. Despite the broad criticism of the prosecution, Steidl is still fighting to get a declaration of innocence from Gov. Pat Quinn. "Now what's left is to make sure that the governor does the right thing and grants him an innocence pardon," Taylor said.

### **IPCC Response to Home Secretary's Proposals on Transfer of Resources**

Independent Police Complaints Commission has published its response to the Home Secretary's proposal to transfer resources from individual police forces to the IPCC to allow it to expand its work and undertake more independent investigations. IPCC's response focuses on 2 areas: more independent investigations in serious and sensitive cases, greater oversight of the complaints system.

Dame Anne Owers, Chair of the IPCC, said: "We welcome the opportunity to extend and strengthen our work. We must ensure that we protect our independence, and have therefore made clear that we believe that any transfer of resources from police forces must be financial and not personnel, so that we can select the staff best able to do the work. Our ability to investigate serious and sensitive matters independently is crucial to public confidence in both us and policing. We need the flexibility and resource to allow us to do this effectively. It is right that police forces will continue to deal with the great majority of complaints, with the support of their professional standards departments. But we want to be able to strengthen our oversight in this area, to improve complaints handling by forces, and to ensure that lessons are learnt and change police practice. This is crucial to increasing public confidence."

The IPCC's sets out five key principles for its work: Ensuring and strengthening independence