practical training to help them find work on their release under the new reforms. The reforms, announced by Lord McNally, the minister for female offenders, will mean all women's prisons will become 'resettlement prisons' so that women are close to home and are more easily re-integrated into society. Lord McNally has also announced plans to pilot an "open unit", for women and young offenders at HMP Styal in Cheshire next year, where it would consider opening a "commercial-run business" there to provide training and employment opportunities, according to the BBC. *Heather Saul, Indpendent, Friday 25 October 2013*

More Than A Slip 'Twixt Cup and Lip *Rosalind English, UK Human Rights Blog, 25/10/13*

Technical evidence can sometimes be crucial to judicial decisions and this case shows how dramatic the consequences are for a family if evidence is unreliable. If the respondent in this case had not put probity before its commercial interests, a mother would have been deprived of the care of her child. Hence the importance of publishing the judgment.

The case arose out applications by the parents, a child and the child's guardian to care proceedings for wasted costs orders against Trimega Laboratories. In short, the care proceedings had been brought for a number of reasons foremost of which was the mother's "excessive drinking". In March 2013 the mother said she had been abstinent from alcohol since August 2012. But in July 2013 a blood alcohol test report from Trimega suggested that she had been drinking. Her abstinence was a crucial factor in the plan for rehabilitation of the child to her care, and had it not been for this test result a final order would have been made on 25 July 2013 and the child returned to her.

After a number of consequent hearings it transpired that there had been a mistake and the actual level had not been indicative of excessive alcohol consumption. Trimega admitted the error and in August the child was returned to her mother's care. Trimega apologised and agreed to pay the costs which related to the unnecessary court hearings following its erroneous evidence. The only issue remaining was whether judgment should be published. All parties save Trimega sought publication. Willliams J decided to publish this judgment because she considered it was in the public interest to do so: The family courts should be as open and transparent as possible to improve public confidence and understanding. In this case expert evidence was relied upon and if the mistake had remained undiscovered it is probable, given the history in this case, that it would have led to the adoption of the child instead of rehabilitation to care of her parent. Close scrutiny of expert evidence is needed and all the surrounding circumstances have to be considered in a situation such as this where the interpretation of test results was so important and influential.

Hostages: Jamie Green, Dan Payne, Zoran Dresic ,Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, 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 449 (31/10/2013)

ECtHR: The Impact of Non-compliance and/or a future UK Withdrawal

Memorandum from Nils Muiznieks to Nick Gibb MP

Observations for the Joint Committee on the Draft Voting Eligibility (Prisoners) Bill

Voting rights for prisoners: The stance of the European Court of Human Rights (the Court) is clear – an automatic and indiscriminate ban on voting rights for prisoners contradicts the European Convention on Human Rights (the Convention). The Court recently reiterated this stance in judgments against Russia (Anchugov and Gladkov v. Russia) and Turkey (Söyler v. Turkey). This means that these countries, as well as the United Kingdom and all other Council of Europe member states with blanket bans on voting rights for prisoners are all at risk of generating many applications before the Court and should change their legislation.

In fact, the Court has clarified that states have a considerable margin of appreciation in how they restrict the voting rights of prisoners: it has left to them to determine which categories of prisoners, if any, could be deprived of the right to vote and how to apply the agreed criteria for such decisions.

My own opinion is that if the deprivation of voting rights is to be introduced as a punishment there should be a logical connection between the offence and this particular sanction. Furthermore, such decisions should be individual, for the duration of the imprisonment only and be based on a judicial procedure.

The Court has already issued several judgments on this issue in the UK, including a pilot judgment, whose implementation is now overdue. The Court temporarily adjourned the examination of all similar cases from the UK, which now number more than 2,500, pending the execution of the judgment. However, the expiry of the deadline for execution, which has already been extended several times, means that the Court may now examine all of the UK cases on an individual basis and award compensation to each of the applicants.

Execution of judgments: As Commissioner for Human Rights of the Council of Europe, I travel to many member states and push for the execution of the Court's judgments and the implementation of reforms aimed at addressing the root causes of repeat applications. In my dialogue with member states, as well as with the Committee of Ministers and external partners, I have drawn special attention to pilot judgments.

Pilot judgments address whole categories of cases reflecting a similar, systemic problem, and should thus be treated as a matter of priority. Efficient functioning of the pilot judgment procedure is absolutely essential to addressing the long-term backlog of repetitive cases lodged with the Court, a problem underscored at the Brighton Conference on the Future of the European Court of Human Rights organised by the UK Chairmanship of the Committee of Ministers in 2012.

Judgments of the Court often concern issues which are not popular with mainstream voters – the integration of Roma into mainstream education, granting lesbian, gay, bisexual and transgender persons equal rights to freedom of assembly, the need for effective investigations into police violence, etc. No matter how unpopular, these judgments must still be executed. Non-compliance of a member state with a judgment of the Strasbourg Court is irreconcilable with its obligation, as a state party to the Convention, to execute the Court's judgments fully and effectively. The only way of recon-

ciling non-compliance with international law would be for that member state to formally denounce the Convention and withdraw from the Council of Europe. Selective non-compliance by one member state would undermine the system as a whole. If a member state decides which judgments to implement, leaving some allegedly “political” or exceptionally “sensitive” judgments without execution, the effectiveness of the entire system is reduced and may eventually collapse as other countries would follow the non-compliance path.

In my year-and-a-half in office, I have come to appreciate that a unique and highly valuable contribution of the Council of Europe to the broader European human rights architecture is the existence of the Court and of our legally binding standards. I have also become increasingly aware of the extent to which such an essential and unique architecture ultimately rests on the continuing and unambiguous commitment of the member states which set it up in the first place. If the UK, a founding member of the Council of Europe and one which has lost relatively few cases at the Court, decides to “cherry-pick” and selectively implement judgments, other states will invariably follow suit and the system will unravel very quickly. Thus, my message is clear: the Court’s judgments have to be executed and the automatic and indiscriminate ban on voting rights for prisoners should be repealed. If the Court system is to continue to provide protection, there is no alternative to this for member states, other than leaving the system itself.

The impact of non-compliance and/or a future UK withdrawal: In my view, the UK’s non-compliance with the Hirst (No. 2) and Greens and M.T. judgments has thus far not caused irreparable damage to the Court, the Council of Europe, or the UK’s international reputation. However, I believe continued non-compliance would have far-reaching deleterious consequences; it would send a strong signal to other member states, some of which would probably follow the UK’s lead and also claim that compliance with certain judgments is not possible, necessary or expedient. That would probably be the beginning of the end of the ECHR system, which is at the core of the Council of Europe.

I think that any member state should withdraw from the Council of Europe rather than defy the Court by not executing judgments. Withdrawal, however, is not where the responsibility of the concerned member state ends. Article 58 of the Convention stresses that a denunciation shall not release the High Contracting Party concerned from its obligations under the Convention “in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective”. This means that the UK, even if it withdrew, would still be accountable to the applicants in the Hirst and similar cases, as well as to others currently seeking redress for alleged Convention violations.

My experience in seeking to promote human rights in various Council of Europe countries suggests that governments are highly sensitive to any real or perceived double standards. Whereas member states of the Council of Europe are generally willing to subject themselves to criticism or “peer review” by other member states, they are less receptive to such criticism by non-member states who have not undertaken the same human rights obligations. If the UK does withdraw from the Council of Europe, other European countries will likely be far less receptive to the UK’s interventions on human rights related matters, including on issues pertaining to the interests of UK citizens living in Council of Europe member states.

It seems likely that the UK’s voice in the broader UN human rights system would also be negatively affected by a withdrawal from the Council of Europe. As a permanent member of the Security Council, the UK has additional responsibilities within the UN system. A withdrawal from the ECHR would cast doubt on the UK’s commitment to UN values and acceptance of UN mechanisms

evant policies and procedures and whether these were followed." The Prison Ombudsman will carry out an investigation into Mr Shapley's death.

Internet Access in Jails ‘Can Cut Reoffending’

Prisoners should have access to computers and the internet to help with re-integration into society and reduce re-offending once they are released, according to research. Controlled use of the web can also transform education, family contact and resettlement in jails, the joint Prison Reform Trust and Prisoners Education Trust report said. It examines the use of information and communication technology in prisons and its potential as a tool for rehabilitation. The report is based on a survey of jails sent to all prison governors and directors in England and Wales supported by the National Offender Management Service. In the foreword to the document, Nick Hardwick, HM Chief Inspector of Prisons, wrote: “We can’t go on with prisons in a pre-internet dark age: inefficient, wasteful and leaving prisoners woefully unprepared for the real world they will face on release. I have not met one prison professional who does not think drastic change is needed.” *James Edgar, Indpendent, Monday 28 October 2013*

Jail Social Workers Who Take Children Without Telling Parents *MailOnline, 25/10/13*

The country’s most senior family judge yesterday 24/10/13 launched a furious attack on social workers who failed to tell parents why their children were being adopted – and suggested that in future the same offence could carry a jail term. Local authority workers in Bristol ignored a court order requiring them to explain why the couple’s two children were being taken for adoption. They only released the information to the parents 45 minutes before the decision was due to be finalised, giving the family no real hope of mounting a challenge in court.

Sir James Munby, who is President of the Family Division, said their behaviour was ‘deplorable’ and ‘symptomatic of a deeply rooted culture in family courts’. In his judgment, he accused the social workers of having a ‘slapdash’ and ‘lackadaisical’ attitude to court orders. He said the couple, who were facing the ‘permanent loss of two children’ had been denied ‘vitally important’ information. He also warned that in future, there would be ‘consequences’ for social workers, suggesting that they could be jailed for contempt if they fail to comply with court orders – an offence that carries a sentence of up to two years. Until now, local authority workers have largely been protected by family courts, which also routinely tolerate delays and inefficiencies in their work. By contrast, members of the public who have failed to comply with court orders have been dealt with severely.

Askham Grange and East Sutton Park Women's Open Prisons To Close

Two women's open prisons will be closed as part of a shake-up of the way female offenders serve their sentences, the minister for female offenders has announced. HMP Askham Grange in Yorkshire and HMP East Sutton Park in Kent will shut "in due course" because the changes will mean there is no longer a requirement for dedicated women's open prisons, the Ministry of Justice said. On 18 October, there were 101 prisoners in Askham Grange and 92 at Sutton Park. The mother and baby unit at HMP Holloway in north London will also close due to under-occupancy, the MoJ said, adding that "any demand will be met by the nearby modern, purpose-built unit at HMP Bronzefield". Female inmates will be moved to Eastwood Park, Foston Hall or Drake Hall once a series of refurbishments and modifications have taken place across all three prisons.

The MoJ said it wanted female inmates to maintain family relationships and serve their sentences closer to home. Low risk offenders will also be offered skill building sessions and

don't do and then giving us a letter saying we are going to be deported or the flat is going to be shut down," she said. She said she had been attacked by punters in the past, but having a maid made her feel safer. "Sometimes [clients] can look very nice, very polite and very gentlemanly but if you say a wrong word it can turn out really badly," she said. "It happened to me about two times, everything was nice and I end up with a punch in my face for no reason. You need to be very careful who you let in, that's why it's very important to have a maid. If you scream she is the first one to walk into the bedroom and save you." The raids had made her less likely to report violence to police, she added. "Most of the time when we call them and we've got trouble, they let the bad guys walk away and accuse us of prostitution." A 52-year-old maid from the evicted flat in Romily street, who herself worked as a sex worker before becoming a maid, said: "The police have completely changed, they've dragged customers naked out of bed, searched the flat – the girls are scared, they are not criminals. As far as I have understood one girl and one maid is not illegal, it's not a brothel."

John James, the managing director of Soho Estates faced the loud-hailer wielding women outside the firm's offices, assuring them that he "had no problem with this type of work" but had no choice but to inform the leaseholder of the flats that they could lose their lease if they were to allow "immoral activities", after Soho Estates was issued with an enforcement notice by police. "I have no angst with these girls, I was surprised last week by an enforcement notice from the police and we have to take that seriously," he told the Guardian. Asked what he thought of the police action he said: "I don't understand it, I really don't – it is part of Soho. Police are putting us in the firing line and turning us into the villains."

Members of the local Soho Society said the character of Soho was under threat from developers and risked becoming homogenous. A new Soho Estates development, Walker's Court, will see the company open offices, a restaurant and caberet theatre – it will also mean the closure of several more "walk-up" flats and a sex shop. "They are chipping away at Soho, there is a community here and these women are part of it," said member Juliet Peston. James said as a major landowner in Soho the company had a right to redevelop its property. "That will unfortunately mean some of the closure of the occupiers, but that is what development means," he said. "We believe it is to the benefit of the area – it's too short-sighted to say that any change is bad."

IPCC to Investigate Police Actions Before Man Found Dead In HMP Cardiff

The Independent Police Complaints Commission is investigating South Wales Police actions prior to the transfer of Christopher Shapley into the care of the court and prison service before his death on 20 September 2013. Mr Shapley from Aberdare was arrested on 17 September and was taken to Merthyr Tydfil Custody Unit. He was charged with common assault and threats to kill on 18 September and was remanded in custody before his court hearing on 19 September. Mr Shapley was transferred to HMP Cardiff and the 43-year-old was found dead in his cell on 20 September. Because of the South Wales Police contact with Mr Shapley before his death this was a mandatory referral under the Police Reform Act.

IPCC Commissioner for Wales Jan Williams said: "This is a difficult time for Mr Shapley's family and friends and they have my every sympathy over their loss. Our investigators have met with Mr Shapley's family and explained what we will be investigating. "We will seek to establish what information was available to the police to inform any risk assessments made, how that information was obtained and recorded and whether it was properly shared with other agencies. Our investigation will also investigate police actions and decisions, as well as rel-

such as the Universal Periodic Review and treaty monitoring bodies. The UK's voice with regard to human rights issues in other countries would clearly be less credible.

The role of the Court: In your letter inviting me to engage in a discussion with the Joint Committee, you raise questions about the role of the Court in interpreting the Convention and "democratic oversight of the Court". In my view, these questions reflect some misleading premises as to how the Council of Europe system functions. The Court is a product of democratic delegation - after having been proposed by democratically elected member state governments, judges are democratically elected by members of the Parliamentary Assembly of the Council of Europe (PACE), where UK MPs sit. Just as in national settings, so in the Council of Europe there is a separation of powers between the judiciary (the Court), the legislative (PACE), and the executive (the Committee of Ministers). Any additional "democratic oversight" of the Court beyond the selection procedure of judges would constitute a threat to the independence and impartiality of the Court.

The Convention explicitly extends the jurisdiction of the Court to all matters concerning the interpretation and application of the Convention, and grants the Court full discretion to decide on any disputes concerning its jurisdiction. Any detraction from this principle, i.e. allowing an external body to limit the Court's jurisdiction, would render the human rights protection system set up under the Convention meaningless. This is not to say, however, that the Court does not exercise any caution in interpreting the Convention. It does so by granting a margin of appreciation to states on those issues in which there is no broader consensus or which touch upon issues of culture or tradition that the member state government is best placed to evaluate. The optimal form of subsidiarity is when human rights issues are resolved at the national level in line with the case-law of the Court. The UK Human Rights Act, a sovereign act of Parliament, is in this sense a good example of how Convention rights can be incorporated into domestic law. I sincerely hope that this Memorandum is useful and will assist you in resolving the issue of voting rights for prisoners at national level in line with the case-law of the Court.

Supreme Court Considers Definition of "Terrorism"

It is a platitude that one man's terrorist is another man's freedom fighter. It is for precisely this reason that the international community has not been able to agree on a definition of terrorism to be embedded in international law.

R v Gul (Appellant) [2013] UKSC 64, 23 October 2013

Judgment: The Supreme Court Unanimously Dismisses Mr Gul's Appeal For Reasons Contained this Judgment Given By Lord Neuberger and Lord Judge, With Whom The Other Members Of The Court Agree.

The issue in this appeal was whether the definition of 'terrorism' in the UK Terrorism Act 2000 includes military attacks by non-state armed groups against national or international armed forces in a non-international armed conflict.

Mr Gul Argued That Both Domestic Law And International Law Required The Statutory Definition Of Terrorism To Be Interpreted Narrowly, So As To Exclude Its Application To Situations Such As Those Depicted In Some Of The Videos Which He Had Uploaded, Namely Those Involving Actions By Non-State Armed Troops Attacking Foreign Armed Forces In Their Territory. The following is taken from the Supreme Court's press summary. References in square brackets are to paragraphs in the judgment.

Legal and factual background: Mr Gul had been convicted by a jury of five counts of dis-

seminating terrorist publications, for which he was sentenced to five years' imprisonment. The offence was created by section 2 of the Terrorism Act 2006, which defines 'terrorist publications' as including publications which are likely to be understood as a direct or indirect encouragement … to the commission, preparation, or instigation of acts of terrorism.

'Terrorism' is defined in section 1 of the Terrorism Act 2000, as the use or threat of action, inside or outside the United Kingdom,

(a) involving serious violence against a person, involving serious damage to property, endangering another person's life, creating a serious risk to public health or safety, or designed to seriously interfere with seriously disrupt an electronic system;

(b) designed to influence a government or intergovernmental organization or to intimidate the public or a section of the public; and

(c) made for the purpose of advancing a political, religious, racial, or ideological cause.

The publications in question included videos which Mr Gul posted on YouTube showing attacks by members of al-Qaeda, the Taliban, and other proscribed groups on military targets in Chechnya, and on the Coalition forces in Iraq and in Afghanistan. They also showed the use of improvised explosive devices against Coalition forces, excerpts from 'martyrdom videos', and clips of attacks on civilians, including the 11 September 2001 attack on the United States. These videos were accompanied by commentaries praising the bravery, and martyrdom, of those carrying out the attacks, and encouraging others to emulate them.

The Court of Appeal had refused Mr Gul's appeal against conviction and sentence. His appeal to the Supreme Court was based on a challenge to the conclusion of the Court of Appeal (arising from a direction given by the trial judge following a request from the jury) that the definition of terrorism included military attacks by non-state armed groups against national or international armed forces in their territory.

The Supreme Court unanimously dismissed Mr Gul's appeal for reasons contained in a judgment given by Lord Neuberger and Lord Judge, with whom the other members of the Court agreed. Mr Gul argued that both domestic law and international law required the statutory definition of terrorism to be interpreted narrowly, so as to exclude its application to situations such as those depicted in some of the videos which he had uploaded, namely those involving actions by non-state armed troops attacking foreign armed forces in their territory.

Reasoning behind the judgment: The court addressed this argument first by considering the application of familiar domestic law principles to the statutory definition of 'terrorism', and then by considering whether that results in a conclusion which has to be adapted to meet those requirements of international law that are incorporated into domestic law [25].

Applying the familiar domestic law approach to statutory interpretation, the Court held that there was no basis on which the natural, very wide, meaning of section 1 of the 2000 Act could be read restrictively, as Mr Gul argued. The definition had clearly been drafted in deliberately wide terms so as to take account of the various and possibly unpredictable forms that terrorism might take, and the changes which may occur in the diplomatic and political spheres [31–2, 38]. In reaching this conclusion, the Court considered that section 117 of the 2000 Act, which prohibits the prosecution of most offences under the 2000 and 2006 Acts without the consent of the Director of Public Prosecutions or (in some cases) the Attorney General, to be of no assistance [35-37, 42]. The Court also observed that creating an offence with a very broad reach and then invoking prosecutorial discretion as a means of mitigation was undesirable in principle and should only be adopted if it is unavoidable.

frames and/or lenses over and above what is offered by the NHS)Where a prisoner wishes to receive reports/assessments over and above what has been requested by a Court in relation to legal proceedingsPrivate medical reports and associated costs for personal injury claimsEscorting costs of a prisoner where a private medical appointment takes place outside the prison Charges for use of a room within the prison, associated escort and administrative costs for personal injury and accident consultations, regarding, for example, an incident that occurred prior to a prisoner's custodial sentence (e.g. a Road Traffic Accident).

Where prisoners request additional medical services, as explained above, they may incur costs and these costs can vary. The British Medical Association publishes recommended charges for non-NHS work but these are for guidance purposes only (of course individual doctors are free to determine their own charges). The following link provides more information on these charges and what they relate to: *House of Lords / 21 Oct 2013 : Column WA134*

"I'd Rather Sell My Body In Soho Than Sell My Mind To A Corporation"

Soho Sex Workers Protest Against Forced Evictions *Alexandra Topping, The Guardian*

A new crackdown on sex workers in London's historic red light district risks putting women in danger and changing the character of Soho, sex workers and activists said on Wednesday. Sex workers from three flats in Soho were evicted late on Tuesday after police issued enforcement notices on landlords warning they could be prosecuted if they were found to be allowing "immoral activities". Scotland Yard said police were working with Westminster council to tackle "all crime" in Soho.

Sex workers and activists – some wearing sequinned masks and holding banners with slogans such as "I'd rather sell my body in Soho than sell my mind to a corporation" – gathered outside the offices of Soho Estates, one of the main property owners in the area , and called for them to "stand up" to police. "Soho has always been one of the safest places in the country for women to work – it is transparent, well established and there has always been the support of the community," said Niki Adams from the English Collective of Prostitutes (ECP), who organised the protest. In the 19 "walk up" flats operating in Soho – where clients can come in off the street – women worked on their own, but were accompanied by a "maid" who helped with cleaning and also provided sex workers with more security in return for tips, she said. "If this continues I fear more women will choose to work on their own or on the street which will put them in much more danger." The actor Rupert Everett, who is making a documentary on prostitution, attended the protest, the ECP said.

In a statement Scotland Yard said police were working with the council to tackle crime which "includes using a range of tactics to tackle historic crime problems, but also ensures sex workers who are vulnerable or need assistance receive it and can access support networks and services". It went on: "Properties being used as a brothel do break the law and police will take action where appropriate, as we have done over a number of years." It is not illegal to sell sex in Britain, but activities associated with prostitution – such as operating a brothel, soliciting and kerb-crawling – are outlawed. The ECP argue that by putting pressure on landlords to evict tenants, police are bypassing the need to prove that the flats are being used by more than one sex worker, and therefore operating as a brothel. Previous attempts by police to use brothel closure orders to close flats have been unsuccessful.

Paula, a 21-year-old Romanian sex worker who had worked in several different flats in Soho since she was a teenager, said police attitude towards sex workers in Soho had changed hugely in the past 12 months. "[Police] start raiding, saying lies, accusing us of things we

showed me in Durham when I was crumbling under the weight of depression helped me survive the place more than you will ever know. How you survive the massive injustice dished out to you I will never know. Stay strong my friend; the truth will prevail in the end.

And this is what I wrote when I republished that book, in August 2013 Susan May has still not managed to clear her name and remains convicted of the murder of her 89-year-old aunt. Whoever it was who did kill Hilda Marchbank in 1992 allowed an innocent woman to serve a life sentence for the crime he committed and has literally got away with murder. I know the case well and I sincerely believe all the official bodies involved with her case, including Greater Manchester police, the IPCC, the CCRC and the appeal courts, know that Sue is innocent. The horrendous injustice she has lived with for over two decades has taken its toll on her health and wellbeing. Although released from prison in 2005, she has not been on a holiday or even been away from home for more than a night since she was released. She spends her life fighting her conviction and trying to prove her innocence and lives only to clear her name. She has no interest in going anywhere or doing anything that does not involve her case: justice is all that matters.

I committed a serious crime and yet I am out, living my normal life. Sue spent 12 years in prison and remains convicted of a crime she did not commit. The injustice with which she lives breaks my heart and has shattered my faith in the British legal system. At the end of 2013 a fingerprint expert has examined Sue's case and the evidence against her and has published a report that shatters the case against Sue. Justice must surely be just a moment away.

This week however, the medical specialists discover that Sue is unwell, very, very unwell.

After 21 years justice could finally be served, but if the CCRC don't act quickly Sue may never see that justice. The CCRC have sat on this report for over 6 months already and seem to be dragging the process on for as long as possible. If they have their way Sue may not live to see the day her name is finally cleared of murder.

Prisoners: Medical Charges

Lord Ramsbotham to ask Her Majesty's Government by what authority Serco, which operates HMP Lowdham Grange, charges a prisoner a prerequisite of £200 before he can be seen by a registered medical doctor instructed in relation to legal proceedings; whether prisoners in public sector prisons are charged a similar prerequisite in similar circumstances; and whether any other private sector company operating a prison charges prisoners a similar prerequisite in similar circumstances.[HL2370]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The Ministry of Justice has made inquiries with HMP Lowdham Grange and Serco (the prison operator) have advised that they are not aware of having directly charged a prisoner £200 for the type of circumstance referred to in your question. NHS England and Private Prison Contractor's healthcare providers deliver medical treatment and services based on an individual's clinical needs. Whether a person is held in custody or not, free medical care would be provided under normal circumstances in both Private and Public Prison establishments.

However there are circumstances whereby a prisoner could be charged for medical care in a Public Sector or privately operated prison. These are inter alia:

Where a prisoner wishes to obtain private medical care Where a prisoner wishes to obtain a second opinion to a medical view provided by the doctor/medical staff in the establishmentWhere a prisoner wishes to have access to his/her own medical practitionerWhere a prisoner seeks care/treatment beyond what is provided by the NHS (for example if a prisoner wants spectacles with

In these circumstances, the only reason for the Court to interpret the definition more restrictively would be if it conflicted with the European Convention on Human Rights (which was not relied on by Mr Gul) or with the United Kingdom's obligations in international law more generally [38].

The first aspect of Mr Gul's argument here was that the United Kingdom's international obligations require it to define terrorism more narrowly in its criminal laws, as it should have the same meaning as it has in international law. The second aspect was that the United Kingdom could not criminalize terrorism happening abroad except so far as international law allowed.

Both aspects of the international law argument face the 'insuperable obstacle' that there is no accepted definition of terrorism in international law [44].

The U.N. General Assembly's working group seeking to agree a comprehensive international convention on terrorism, reported in 2012 that there were disagreements as to the precise distinction between terrorism and 'legitimate struggle of peoples fighting in the exercise of their right to self-determination'. And, although there are other, non-comprehensive treaties dealing with terrorism, there is no plain or consistent approach in UN Conventions on the issue [46–48]. This is consistent with what was said by this Court in Al Sirri v Secretary of State [2012] UKSC 54, [2012] 3 WLR 1263, para 37 [44].

Moreover, there have been U.N. resolutions referring to the activities of al-Qaeda and the Taliban as 'terrorism', although their actions involved insurgents attacking forces of states and intergovernmental organizations in non- international armed conflict. And the international law of armed conflict does not give any immunity combatants in non-international armed conflicts [49–50].

It is true that some other provisions of the 2000 and 2006 Acts give effect to treaties that do not extend to insurgent attacks on military forces in non-international armed conflicts. But there was no reason why the United Kingdom could not go further in the 2000 Act than the treaties had. And even if those treaties had intended to limit the definition of terrorism that they applied, that would only affect the particular provisions of the 2000 Act that implemented those treaties [54].

As to the second aspect of the international law argument, it was irrelevant for present purposes whether the United Kingdom can criminalize certain actions committed abroad, because the material in this case was disseminated in the United Kingdom [56].

Therefore, whether one approaches the matter as an issue of purely domestic law, or as an issue of domestic law read in the light of international law, there was no valid basis for reading the definition of terrorism more narrowly than the plain and natural meaning of its words suggested.

In parting, the Court noted that although the issue was one for Parliament to decide, the current definition of terrorism is 'concerningly wide'. [38] Canada and South Africa, for example, exclude acts committed by parties regulated by the law of armed conflict from the definition, and a recent report in Australia recommends that that country should follow suit. [61]

The Independent Reviewer of Terrorism Legislation in the United Kingdom, Mr David Anderson QC, has made the point that 'the current law allows members of any nationalist or separatist group to be turned into terrorists by virtue of their participation in a lawful armed conflict, however great the provocation and however odious the regime which they have attacked' [61].

The 2000 and 2006 Acts also grant substantial intrusive powers to the police and to immigration officers, which depend upon what appears to be a very broad discretion on their part. While the need to bestow wide, even intrusive, powers on the police and other officers in connection with terrorism is understandable, the fact that the powers are so unrestricted and the definition of 'terrorism' is so wide is probably of even more concern than the power of criminal prosecution to which the Acts give rise. [64]

Police And Criminal Evidence (PACE) Changes: What You Need To Know

Michael Zander QC, Police Oracle, 24/10/13

From midnight on October 27 revised versions of six of the eight PACE Codes of Practice come into force – A, B, C, E, F and H. On October 31, 13 pages of new statutory PACE rules come into force for the retention and destruction of biometric material.

Interpreters and translation: The most dramatic impact will be the implementation of the EU Directive on Interpreters and Translation. PACE Code C has always required interpreters for suspects who could not speak English. But the EU Directive takes this obligation considerably further.

The basic principle is that the arrangements made and the quality of interpretation and translation must be such that the suspect can communicate effectively with police officers, interviewers, solicitors and appropriate adults in the same way as a suspect fully able to speak and understand English (Code C, para.13.1A).

Moreover, the requirement now extends to the provision of a written translation of all essential documents, a list of which is given in new Annex M of Code C. They include:

1) The grounds for keeping the suspect in custody before and after charge given by the custody officer and the review officer.
2) A superintendent's authorisation extending pre-charge detention.
3) A warrant of further detention and any extension issued by a magistrates' court.
4) Authority to detain in a warrant of arrest issued in connection with criminal proceedings.
5) The written notice showing particulars of the offence charged.
6) Written interview records and any written statement under caution.

There are two stated exceptions:

• The custody officer can authorise oral translation or an oral summary of documents (1) to (5) in the list – not (6) interview records - if satisfied that it would not prejudice the fairness of the proceedings by adversely affecting the suspect's ability to understand their position or communicate effectively.

• Alternatively, the suspect can waive his right to written translation of essential documents but only after receiving legal advice "or having full knowledge of the consequences" and giving "unconditional and fully informed consent" in writing (Annex M, para.4).

The suspect can be asked if he wishes to waive the right to a written translation but must be reminded of the right to legal advice. Nothing must be done or said to encourage such waiver. Waiting for written translation to be completed will likely result in suspects spending more time in custody which may of course be a reason for them agreeing to waive the right. But given the constraints, it will be a brave custody officer who authorises oral translation of essential documents or accepts that the detainee has validly waived the right to have a written translation.

Code C previously allowed for the possibility that a police officer who spoke the relevant language could act as interpreter. That is no longer possible. Revised para.13.9 states: " A police officer may not be used."

There have been serious issues with regard to the provision of interpreter services. The Ministry of Justice wanted to give a monopoly to one organisation. Under the new rules chief officers are free to decide which individuals or organisations to employ.

17 year olds to be treated like juveniles

The most significant other change in the Codes of Practice is the new rule that, with a couple of exceptions, anyone who is or appears to be 17 years old has to be treated under the rules of the Codes in the same way as juveniles under the age of 17. An appropriate adult must

lowing serious fires at those facilities. We would call upon the Home Office to install sprinkler systems in all similar properties…'

CFOA President, Paul Fuller also commented that: 'the extensive spread of the fire might have been halted before the lives of firefighters and the centre's staff and residents were put at risk, had the Home Office listened to Oxfordshire Fire Service's advice to fit sprinklers at the Campsfield Centre.'

The circumstances of the fire and its causes are currently being investigated. Eleven years after the fire at Yarl's Wood which destroyed the centre, it seems the Home Office is still playing fast and loose with the lives of vulnerable asylum seekers.

Sandra Gregory Doing Time With Sue May

In 1993 I got myself arrested at Bangkok airport and subsequently received a 25 year prison sentence. After serving 4_ years in a Thai prison I was allowed to transfer to the UK to serve out the remainder of my sentence near family and friends. After a year in Holloway I was transferred to HMP Foston Hall and after a few months there I found myself 'ghosted' out to HMP Durham's infamous H Wing. Being in a place like H Wing almost destroyed me. I didn't know why I had been moved there and none of the authorities wanted to give me the reasons. The oppressive atmosphere, high security regime and frustration of not being given any reasoning for my sudden move, pushed me into a deep depression. I struggled to climb out of bed each morning and fought the demons, which kept telling me to end it all now. I agonised that, unlike so many of the women I was living with, I was pathetic. I wasn't even brave enough to hang myself.

My saving grace in Durham was Sue May. We became good friends very quickly and although she didn't realise it, Sue saved my life. She was one of the nicest people I had met in many years and her situation was so much worse than my own. I learnt about the reasons Sue was in Prison and realised very quickly that she was one of the people who really shouldn't be in prison at all. She was not guilty of the crime she had been convicted of. Sue didn't seem to be anywhere near as depressed as I was. I was, after all, guilty and did deserve to be in prison, so why was I so upset to be in a prison I didn't like. Sue shouldn't have had her liberty taken away at all. I had to stop feeling so sorry for myself.

The King of Thailand granted me a pardon in 2000 and I was released. A few years later I published a book and the following is what I wrote about Susan May. Not all the women I met in Durham were mad, bad or evil. When I first met Sue May I thought she was just one of many nutty jailbirds I'd come across so many times over the years. She always went out to exercise, whatever the weather, wearing a pair of grey cycling shorts and carrying a bag of bread to feed the sparrows. This mad old jailbird, I thought to myself, going out in shorts to feed the birds. A number of times I walked around the yard with her.

Sue's a talker and every day she'd tell me about her case, the way the police had handled it and how her lawyer had not offered any defence at her trial. She was innocent of the crime of which she'd been accused, she said. I took absolutely no notice of any of it because you hear those stories all the time inside. Sometimes I used to think I was the only guilty person in prison. After a while though I thought about the things Sue was saying. I'd question her at length, trying to catch her out with something she had said earlier. But her stories always added up. Out of the blue, I'd quiz her on some small detail, pretending I was a little confused, but the responses always flowed without her having to think about it and always linked in perfectly with something she had said earlier.

At the end of my book, in the 'thank you bit' I said this to Sue. Thank you also to Sue May, who is about to enter her second decade behind bars. The support and friendship you

centres." Crook said the vast majority of women in prison – estimated at more than 4,000 – were on remand or serving a sentence under 12 months, so proposals to move offenders close to home would affect only a fraction of those in jail. In a report on female offending in 2007, Lady Corston recommended that a number of smaller units be set up across England and Wales, which would move offenders closer to their families than under the current system of 12 prisons in England and none in Wales.

Rachel Halford, director of the support group Women in Prison, welcomed the government action, but said it was unclear how the proposals would work in practice. "If everything works that is being promised, of course this would be fantastic," she said. "My question is, how is the government going to get them closer to home when there are only 12 prisons? We want them to provide support for mental health, domestic violence, low education levels – all of these different hurdles that face women in prison."

The Women's Justice Taskforce has called for an urgent rethink of how female offending is tackled by government. he average cost of a place in a women's prison is £56,145, according to its estimates, compared to between £10,000 and £15,000 for an intensive community order.

Still No Protection for Asylum Seekers

Harmit Athwal, IRR, 24th October 2013

On 18 October 2013, a fire erupted at Campsfield House Immigration Removal Centre near Oxford. The centre, which can hold up to 216 men, suffered serious damage and those held there were transferred to other removal centres and prisons across the UK.

Reports have emerged from the centre that the fire was allegedly started by a detainee who had self-harmed and then set fire to his room. Campaigners from Corporate Watch were able to speak to people as the fire took hold in the centre while others watched the fire from outside and subsequent evacuation unfold. Allegations are also emerging about poor evacuation procedures and alleged brutality against detainees in the aftermath of the fire.

Very little 'official' information has emerged about what happened. Mitie, the private firm which runs the centre, has refused to comment and refers queries to the UK Border Agency. A somewhat uninformative statement was issued by a Home Office spokesperson: 'The fire at Campsfield immigration removal centre led to more than half of the detainees being relocated to other removal centres around the UK. All the detainees have been accounted for and two male detainees were taken to hospital. One has been released and the other remains in the hospital. The cause of the fire is being investigated by police and the fire service.'

However, the press release from Chief Fire Officers' Association (CFOA) was a little more revealing: 'Ten fire engines attended the fire at the Kidlington Centre and one casualty was rescued by fire crews, and remains in a critical condition. One hundred and eighty people were evacuated from the accommodation block where the fire started, and there was substantial damage to the roof and second floor of the building. Campsfield House did not have sprinklers fitted, despite an earlier incident involving the same accommodation block, during which Oxfordshire FRS had strongly recommended their installation.

We had an incident at Campsfield several years ago, and formally wrote to the Home Office recommending the fitting of sprinklers due to the nature and behaviour of the occupants, plus the high probability of another similar incident. The Home Office elected not to fit sprinklers during the refurbishment. There is a precedent for sprinklers to be fitted in immigration centres – as they were in Yarlswood[sic], Bedfordshire, and Harmondsworth [sic] in London – fol-

be provided and a person responsible for their welfare (usually a parent) must be informed. The specifics of the long list of provisions that are affected by this change are set out in new Note for Guidance 1M in Code C.

The two exceptions are where the present rule is based on statute – namely, the rule that a detained juvenile should be transferred to local authority accommodation and the definition of "appropriate consent" of someone over 17 for an intimate search, x-ray, taking of fingerprints and DNA samples etc means the consent of that person.

Around 75,000 arrests of 17 year olds take place each year.

The destruction of DNA material

The new rules on the retention of biometric material are the Coalition Government's response to the European Court of Human Rights' decision that the then applicable rules breached the Convention. It is five years ago that the Strasbourg Court gave that decision. The rules allowed indefinite retention of DNA material even when taken from a suspect who was acquitted or from someone who was never the subject of proceedings.

The new rules allow for indefinite retention of fingerprints and DNA of an adult who has been convicted of any offence and of someone under 18 who has been convicted of a "qualifying (i.e. serious violent, sexual or burglary) offence. Where a person under 18 is convicted of one minor offence, retention can be for five years and indefinite after a second conviction.

If the person was not convicted, the retention rule depends on whether the offence in question was serious and whether they were charged. Where, for instance, the person was charged with a qualifying offence but not convicted, retention can be for three years plus a further two years on application by the chief constable to the Biometrics Commissioner. At the other extreme, if a person is arrested or charged but not convicted for a minor offence their biometric material cannot be retained at all, though it can be the subject of a speculative search.

Preparation for the start date of October 31 involved the destruction of millions of fingerprints, and DNA samples and profiles on the database. The destruction of hard copies of fingerprints, requiring manual searches, has been given until January 31 for completion.

Michael Zander QC Emeritus Professor, LSE, Home Office PACE Strategy Board.

Northern Ireland Police 'Colluded With Loyalists to Cover up Catholic Murders'

David McKittrick, Indpendent, Wednesday 23 October 2013

Compelling evidence of large scale collusion between police and loyalist assassins in Northern Ireland is detailed in a new book about the Troubles which claims that more than 100 murders of Catholics involved members of the security forces. It describes a number of documented cases where police and local soldiers took part in shootings and bombings which claimed the lives of Catholics. In other cases, murders by loyalists in the 1970s were "inexplicably" not properly investigated. The book, Lethal Allies, draws on unpublished official documents in which detectives revisited cases from the 1970s. The investigators repeatedly say they found strong evidence of collusion in killings.

In one damning passage, police investigators urge "honest disclosure about these shocking, shameful and disgraceful crimes", declaring that "families have received no justice to date". The book is written by Anne Cadwallader, a veteran journalist and researcher at the Pat Finucane Centre, an organisation heavily critical of behaviour by the security forces. It draws on state and security force documents declassified in recent times. Its strongest evidence is drawn from the Centre's access to dozens of detailed reports given to families by the

Historical Enquiries Team (HET), a “cold case” unit of the Police Service of Northern Ireland. The organisation was until recently headed by the former Metropolitan Police commander Dave Cox.

In a striking conclusion, the HET says: “It is difficult to believe that such widespread evidence of collusion was not a significant concern at the highest levels of the security forces and government. It may be that there was apprehension about confirming the suspicions of collusion and involvement, particularly of RUC personnel.” One internal military document quoted estimates between 5 and 15 per cent of members of the Ulster Defence Regiment, a locally recruited force under army control, were also members of loyalist groups, some of which were involved in many murders.

The HET, which has employed hundreds of former police officers from Northern Ireland and Britain, has provided families with hundreds of reports into murders. Allegations of collusion in rural areas where both the IRA and loyalists were active were often made in the 1970s, most notably by the crusading Catholic priest Father Denis Faul, but his claims were largely officially denied. The book substantiates many of his claims.

A number of members of the Royal Ulster Constabulary and the Ulster Defence Regiment, both since disbanded, were convicted on murder and other charges in the 1970s. But the HET reports point to repeated instances when other members of the security forces were not prosecuted, and where opportunities to gather evidence were ignored. One murder investigation is described as “shambolic”, while many police actions are described as inexplicable.

In one case a man convicted of killing a Catholic was described in court as a cheese processor. Police did not reveal that he was a serving member of the RUC reserve, and a reference to this fact was removed from court files. At his trial, police gave mitigating evidence on his behalf, saying he bitterly regretted the murder, which he had carried out together with other members of the security forces. Impressed by this, and unaware that the defendant had dual membership of the RUC and the UVF, the judge handed down a lighter sentence.

According to the HET: “The fact a defendant was working as a police officer while committing terrorist-related murders would undoubtedly have been a factor for consideration. Any decision to withhold this information from the court is an extraordinary matter.” The HET did not examine the 1974 Dublin and Monaghan bombings which killed 30 people in attacks where collusion has been alleged.

The critical HET reports will be cited by Sinn Fein and other critics of the security forces in support of their contention that the police and army employed “dirty tricks” during the Troubles. In recent years the PSNI has replaced the RUC, and things have changed so much that Sinn Fein formally supports the PSNI and appoints members to the Policing Board which supervises it. Nonetheless, revelation of the HET’s conclusions that collusion was so widespread and so sinister will come as an embarrassment to the authorities, and to political figures who make a point of praising the role of the police and military during a time while the IRA was responsible for many killings. According to Ms Cadwallader: “There was systemic collusion in the 1970s, and at different times it went to different levels. I think there must have been somebody trying to push Northern Ireland over the edge of the abyss. If there had been a virtual civil war I think that would have suited some people in London.”

One of the many cases examined is that of Colm McCartney, a cousin of the Nobel laureate Seamus Heaney. He and a friend were shot dead by men in military uniform at a fake checkpoint in 1975, weeks after a similar shooting. The two were shot with weapons which were later used to kill three other Catholics. The Historical Enquiries Team said the original

in a Young Offenders’ Institute and had been left with permanent brain damage. There was a need for an enhanced investigation in that case, because the prison’s system of suicide prevention had apparently failed – and as he had not died, there could be no coroner’s inquest.

In Smith, the court set out that there is a staged system of investigation of deaths, whereby the first stage takes place automatically in relation to any death, whereas the second stage will vary depending on whether the first stage has shown non-compliance with a substantive Article 2 obligation. In some cases, a Middleton inquest will be triggered automatically. In others, something more than a Middleton inquest (such as a public inquiry) may even be necessary. The essential point, however, is that to claim that the initial investigation needs to be Article 2 compliant is to put the cart before the horse – it is the initial investigation which establishes the type of inquiry which is required, then the coroner’s inquest which ensures Article 2 compliance. If an independent investigation were required from the outset, the Supreme Court would have said so in Smith.

Where there is a death in prison or in police custody, there is an independent investigation before the coroner’s inquest, conducted by either the PPO (Prison Ombudsman) or the IPCC. The court concluded that: “it does not follow, in our view, that the State must, as a matter of law, institute the same system to investigate suicides of detained MHA patients. We have concluded that it does not have to do so as a matter of the existing law. Whether the UK wishes to create such a system on grounds of public policy is a different point.” [79]

Ross Beaton: UK Human Rights Blog

Female Prisoners to be Moved to Jail Near Family Home *Josh Halliday, Guardian, 25/10/13*

Female offenders will be transferred to the prison closest to their family home under reforms to be announced by the justice minister Lord McNally. A planned overhaul of the rehabilitation system will see 12 women's prisons in England turned into resettlement prisons, allowing offenders to maintain close ties with their family in an effort to reduce reoffending rates.

McNally, the minister responsible for female offenders, said: "When a female offender walks out of the prison gates, I want to make sure she never returns. Keeping female prisoners as close as possible to their homes, and importantly their children, is vital if we are to help them break the pernicious cycle of reoffending. "And providing at least a year of support in the community, alongside the means to find employment on release, will give them the best possible chance to live productive, law-abiding lives."

The reshaping of women's prisons is one of the reforms to be unveiled by ministers following criticism that female offending is "an afterthought" in plans to transform rehabilitation. In a critical report released in July, MPs on the Commons justice committee said successive governments had ignored issues blighting women offenders and had failed to curb patterns of reoffending. Under the measures, offenders will be given tailored support for 12 months after their release and low-risk female inmates will be offered "genuine employment opportunities" before leaving prison. The Ministry of Justice said it was considering the launch of a business at HMP Styal, in Cheshire, to provide training and employment for offenders. The ministry said it was attempting to tackle mental health issues affecting women in prison by creating four personality disorder treatment services with the NHS.

The proposals were met with disappointment from judicial reform charities. "It's a terrible wasted opportunity," said Frances Crook, of the Howard League for Penal Reform. "They could have closed the women's prisons altogether and invested the money into women's

had been in hospital many times. On 13 October, she was detained in hospital under the Mental Health Act following a dramatic increase in her risk of suicide. After ten days on "standard" observation (once an hour), rather than more frequent "close" observation, she was found dead in her room. The morning staff found JA's bed/mattress stacked against the door and that there was a ligature (a dressing gown cord) around her neck.

An internal investigation was initially carried out by the Ward Manager within 72 hours of the death. This was followed by another internal investigation by a Serious Untoward Incidents ("SUI") team. Mrs Antoniou's husband (the Claimant in this case) asked for an independent investigation to be carried out, but none took place. A coroner's inquest with a jury then followed, beginning on 1 May 2012, and the jury gave a narrative verdict on 16 May 2012 setting out the circumstances of the death and commenting on the suitability of the systems in place at the hospital to manage Mrs Antoniou's risk of self-harm.

The Claimant sought to persuade the court that Article 2 required an independent investigation prior to the coroner's inquest, as in prison death cases. The court disagreed.

When an inquest is held: Under the law in place at the time of the death, while coroners had to hold an inquest with a jury for deaths in prison, there was no corresponding obligation on them to do so for deaths in psychiatric hospital. The coroner in this case chose to summon a jury in any event. Article 2 obligations

Article 2 ECHR requires the State to protect the right to life. The Strasbourg court has interpreted this to impose substantive obligations (not to take life without justification, and to establish procedures to protect it) and procedural obligations (to investigate breaches of the substantive ones). The State has substantive obligations, as set out in the House of Lords judgment in Savage in 2008, to protect the life of mental health patients who are detained under Section 3 of the Mental Health Act. Since Rabone, this duty increasingly applies to voluntary mental health patients as well. Where something goes wrong with the substantive obligations e.g. a suicide or an attempted suicide occurs, the State then has a procedural obligation under Article 2 to initiate an "effective public investigation by an independent official body" (per Lord Bingham in Middleton, at [3]).

The most far-reaching point of the judgment is that the coroner's inquest will normally suffice to discharge the Article 2 obligation, which falls on the State apparatus as a whole. Apparently only the Republic of Ireland and Cyprus, out of all the ECHR member states, have a system of independent coroners – civil law systems, such as France and Germany, often assign the equivalent role to their prosecuting authorities. The court interpreted the Strasbourg jurisprudence from cases such as Jordan v UK, Ramsahai v The Netherlands, and Silih v Slovenia as indicating that there is an overall obligation on the State to ensure a prompt examination of cases. It noted that where an initial investigation is conducted by investigators who are hierarchically subordinate to the institution where the death took place (the Ward Manager here, and the Amsterdam Public Prosecutor in Ramsahai), this will not be fatal so long as the investigation can itself be subject to review by an independent tribunal [58].

What this all means for the law in England and Wales is largely set out in R(Amin) v Secretary of State for the Home Department, R(L) v Secretary of State for Justice, and R(Smith) v Oxfordshire Assistant Deputy Coroner. In Amin, Lord Bingham stated that the law of England has for centuries required a coroner to investigate deaths in prison and that this investigation, carried out in public and where the deceased's family can be represented, discharges the Article 2 obligation. In L, a young man had failed in his suicide attempt whilst

police investigation into the killings "barely existed", describing as "inexplicable" the police's failure to interview eye-witnesses to the incident. It added that because of this and other behaviour, it was unable to rebut or allay Catholic suspicions that investigations were not rigorously conducted in a deliberate effort to conceal security force involvement.

The report concluded: "The HET review has uncovered disturbing omissions and the lack of any structured investigative strategy. Indisputable evidence of security forces' involvement with loyalist paramilitaries in one case, followed by significant evidence of further co-operation just weeks later, should have rung alarm bells all the way to the top of government. Nothing was done; the murderous cycle continued."

Private Citizen Wins Right to Prosecute Met Police Worker *Tom Harper, Indpendent, 18/10/13*

Unprecedented criminal action by an individual against police worker gets go ahead from CPS. Scotland Yard is facing fresh embarrassment after a citizen won the right to launch what is thought to be an unprecedented private prosecution of a police employee for perverting the course of justice.

Michael Doherty has triumphed in his five-year battle to personally bring criminal charges against a Met civilian worker, Tracey Murphy, who is alleged to have made false claims about the former aircraft engineer in a sworn witness statement. It is believed to be the first time in UK legal history that an individual, rather than the Crown Prosecution Service, has managed to launch a private prosecution against a police civilian worker. The news raises fresh questions about police conduct – days after the IPCC criticised the "honesty and integrity" of three officers implicated in the "Plebgate" conspiracy.

Ms Murphy, who is the secretary to the Hounslow borough commander, Carl Bussey, made a police statement alleging that Mr Doherty called her ten times over two days and made her feel "upset" and "harassed". The father-of-three then decided to bring a private prosecution against her, alleging that the witness statement was false.

The bizarre case erupted in 2008 when Mr Doherty, who lives in Hillingdon, passed the Met an 86-page dossier of evidence that he claimed showed a relative had been the victim of a crime. Frustrated by a lack of progress, he says he phoned Hillingdon police station five times to try to speak to a senior officer and establish the status of the investigation. During these calls, Mr Doherty spoke to Ms Murphy. Three days later, officers arrested him at home on suspicion of harassing their colleague. Ms Murphy then made a police statement alleging that Mr Doherty had called her repeatedly and made her feel "upset" and "harassed", which the Met relied on to justify his early morning arrest. Mr Doherty was later cleared at trial and reported the matter to the Independent Police Complaints Commission.

However Deborah Glass, the deputy chair of the IPCC, decided that a "proportionate and appropriate outcome" would be a reminder to officers to keep "accurate and detailed notes". Unperturbed, Mr Doherty launched a private prosecution of Ms Doherty, and the Crown Prosecution Service took over the case in November 2011. The CPS later tried to drop the case, leading Mr Doherty to launch a judicial review.

Now, in a signed consent order agreed last week, CPS lawyers have conceded there is "enough material to provide for a realistic prospect of conviction" and that it is in the public interest for the prosecution to proceed. A CPS spokesperson said: "In accordance with CPS legal guidance, where both the evidential and public interest stages of the Code for Crown Prosecutors have been met, a private prosecution should only be taken over if there is a particular need for the CPS to do so. "In this case we do not consider there is a particular need

for the CPS to take over the prosecution." Mr Doherty will now resume his prosecution, which will be led by an independent professional barrister.

Mr Doherty told The Independent: "This has been a long and very stressful battle. The failure of public institutions like IPCC and the CPS forced me to take this unusual route. The proper place for this matter to be adjudicated is before a jury, not in a back office." In 1994, the family of Stephen Lawrence mounted an unsuccessful private prosecution against five men who they believed killed him.

UK Detention of Severely disabled Woman - Violation of Article 5 § 4

M.H. v. the United Kingdom (no. 11577/06): The applicant, M.H., is a British national who was born in 1970 and lives in Shropshire (England, UK). She is severely disabled as a result of Down's syndrome. The case concerned her detention on mental health grounds. In January 2003 M.H. was detained in a hospital for 28 days for assessment. Although she was entitled to challenge her detention during the first fourteen days, she lacked legal capacity to do so. M.H.'s mother made an order for her discharge, but a barring order was issued preventing her mother from making any further order for the next six months.

During the twentyeight day assessment period, the local authority applied to the court to discharge M.H.'s mother as her nearest relative, an action which had the effect of extending her detention indefinitely. Once these proceedings had been issued, M.H. had no means to challenge her continued detention. She was eventually discharged in July 2003.

Relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), M.H. complained that her right to challenge the lawfulness of her detention had been violated, firstly because there had been no provision under UK law for the automatic review of the detention of persons without legal capacity, and secondly because there had been no provision for a patient, whether incapacitated or not, to take proceedings before a court or tribunal when the detention had been extended indefinitely following the issue of proceedings to displace the nearest relative. Violation of Article 5 § 4 - in respect of the first 27 days of the applicant's detention but not in respect of the remainder of the detention Just satisfaction: EUR 4,400

Young Offender Institutions: Restraint *House of Lords /2 Oct 2013 : Column WA172*

Baroness Stern to ask Her Majesty's Government whether the parents of a child (or the local authority when the child is on a care order) in a young offender institution are routinely notified when a child has been restrained and is being taken to hospital as a result of his or her injuries.

Minister of State, Lord McNally: The safety of young people in custody is our highest priority. The behaviour of some young people is sometimes extremely challenging and can put the safety of other young people and staff at serious risk. The management of this behaviour is crucial to creating a safe environment for young people and staff. The Government is clear that restraint should only ever be used against young people as a last resort where it is absolutely necessary to do so and where no other form of intervention is possible or appropriate.

All under-18 Young Offenders Institutions are required to comply with Prison Service Instruction 08/2012 'Care and Management of Young People'. This requires that families, and other appropriate bodies (which includes the relevant legal authority for young people on a care order), are notified in each instance that force, including restraint incidents, is used on a young person. Where serious incidents occur, such as those requiring hospital treatment, families or the relevant authority are informed as soon as possible. All establishments holding young people have Restraint Minimisation Strategies in place to promote an establishment-wide commitment to minimising incidents of restraint.

EDM 611: Private Prosecutions of Police, Public Servants and the CPS

That this House notes that at times the police and public servants are prosecuted for perjury and other offences in private prosecutions; believes that having the facility for a private prosecution is an important safeguard when the prosecutors refuse to prosecute; further notes that in a number of cases the Crown Prosecution Service (CPS) has taken over such prosecutions merely to prevent the prosecution from progressing; further believes that this raises concerns as to whether this is a misuse of its power to intervene, when the option to have a case struck out for lack of evidence exists to prevent false prosecutions; and calls for the CPS to list all of the prosecutions that it has taken over in the last decade along with details of the employer of the person being prosecuted, what they have done and the reasons for that decision.

Early Day Motion 613: Extension Of Freedom Of Information Act 2000

That this House praises the Freedom of Information Act 2000 for the transparency and openness it has brought to the public sector and the public right of access of information held by central and local government and its agencies; notes that public services delivered by private companies are currently beyond the scope of the 2000 Act; further notes that, as growing amounts of public services are privatised, ever decreasing amounts of public spend are subject to freedom of information; and supports calls to extend the legislation so that public services contracted out to the private and third sector are covered by freedom of information legislation.

Early Day Motion 623: Privatisation In the Prison Service

That this House calls for an urgent and independent review into the impact of privatisation in the Prison Service; is concerned that the latest Ministry of Justice report on prison annual performance ratings, published in July 2013, gave the G4S-run HM Prison Oakwood and Serco-run HM Prison Thameside the lowest ranking possible; is alarmed that the Chief Inspector of Prisons in his report on an unannounced inspection of that prison in June 2013, has confirmed that drug use at the 1,600-place privately-run HM Prison Oakwood, which opened in April 2012, is more than twice the rate of similar jails, while inmates find it difficult to get hold of clean prison clothing, basic toiletries and cleaning materials; would be deeply concerned at any suggestion that the newly-proposed super prison near Wrexham be a privately-run prison; and calls on the Secretary of State for Justice to commission an independent review to consider the overall impact of privatisation in the Prison Service, addressing the process, finance and impact on prisoners, staff, communities and the public.

Coroners Inquest Enough To Satisfy Article 2 In Mental Health Suicide Case

R (Antoniou) v (1) Central and North West London NHS Foundation Trust; (2) Secretary of State for Health; (3) NHS England [2013] EWHC 3055 (Admin)

Where a patient, detained in hospital under Section 3 of the Mental Health Act 1983, takes their own life, Article 2 imposes procedural obligations on the State to investigate the circumstances of the death. These obligations are fulfilled by a coroner's inquest. Unlike in prison and police station deaths, there need not be any independent investigation system prior to the inquest stage, and nor does Article 2 require one.

Suicide in hospital: Jane Antoniou was detained in the Mental Health Unit of Northwick Park Hospital under Section 3 of the Mental Health Act 1983, when she took her own life "by misadventure" on 23 October 2010. She had long suffered from a mental health disorder and