said: “On the night of Sarah’s death there were only two nurses looking after 527 women in this privately run prison. If proper procedures had been followed this death could and should been prevented. It was Sarah’s drug dependency that resulted in her being imprisoned in an environment that could not keep her safe. Rather than send her to prison which is expensive damaging and dangerous, it should have been possible to address the reasons behind her offending through community based alternatives. This tragic death of a young mother is a tragic reminder of the urgent need for a new approach to the treatment of women in conflict with the law.” INQUEST has been working with Sarah’s family since 2011. Sarah’s family is represented by INQUEST Lawyers Group members Jasmine Chadha and Megan Phillips of Bhatt Murphy Solicitors and Alison Gerry of Doughty Street Chambers.

G4S Guard Bludgeoned Woman To Death

Last November a 42 year-old pharmaceutical worker from Thailand took part in a conference about HIV treatment at Glasgow's Clyde Auditorium. Her name was Khanokporn Satjawat. A G4S guard checked Satjawat's ID. He didn't like her manner. Later he followed her into the toilets and bludgeoned her to death with a fire extinguisher. Yesterday 29/10/13, at the High Court in Glasgow, Clive Carter was found guilty of Khanokporn Satjawat's murder. The court heard that the 35 year-old G4S man tended to become enraged when women contradicted him. In a police interview his wife described him as "violent and manipulative". His GP had referred him for anger management counselling. A few days before the killing, Carter had knocked on a woman’s door at the Holiday Inn Express hotel, carrying a fire extinguisher and claiming there had been a report of a fire. Yesterday's murder conviction raises fresh doubts about G4S's fitness for public service. G4S works on police investigations, runs prisons, children's homes and detention centres, among other privatised public services. They're having a very bad month. Their UK flagship Oakwood Prison is in crisis. In South Africa, the state has taken back control of G4S Mangaung Prison; guards are accused of torturing inmates. "A robust employee screening programme helps organisations minimise the risk of making inappropriate recruitment decisions," G4S tells potential customers. "We have a wealth of experience in developing and implementing background checks and security clearance for companies in the private and public sector." But are they any good at it? What evidence is there of G4S's commitment to the safety of people who fall into the company's hands? [G4S manage 5 prisons, HMPs, Birmingham, Altcourse, Oakwood,/YOI Parc, Rye Hill, and Wolds, they also manage two IRCS, Brook House and Tinsley House.]

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 450 (07/11/2013)

Justice for Chris Xavier

In November 2004 my friend Fred Moss was reported missing. He was a 21-year-old Traveller local to Hertfordshire although he also spent up to 6 months of the year in France laying tarmac with his brother. My name at the time was ' Christopher Nudds' but I was forced to change it to ‘Christopher Docherty-Puncheon’, whilst in the prison system after some fellow prisoners cashed in by claiming I'd confessed to crimes I did not commit. After my second conviction for much the same reason, I changed my name to Chris Xavier.

I’m not a traveller but had my own environmental health company working in central London and the Home Counties. Moss and myself crossed paths at some point during the course of our business activities. He was a well presented and likeable lad who had a head for selling. We hit it off straight away and I had no problems knowing he was a Traveller. We shared similar interests in hare coursing and shooting. He ended up being like a brother to me and we trusted each other. He chose not to tell his family how close we were for fear of being ridiculed by other travellers I was nothing but a "Gorger", a gorger is a non traveller.

I was later arrested on suspicion of Fred's murder and questioned for 9 days. My interviews were a mixture of answered questions and no comments. I was in fear of reprisals from members of the Travelling community as just days earlier I had been abducted by members of his close family in front of Cambridgeshire police officers. I was driven to remote farmland and had a pistol fired around my head whilst being questioned as to Fred's whereabouts. At the end of it the Travellers accepted the fact that I did not know where he had gone or been taken. They did ask if I knew anything about drugs.

The police who allowed my abduction were later warned over their conduct but allowed to continue with usual duties. At the end of the 9 days being in police custody I was charged with perverting the course of justice. I was not charged with murder, as there was insufficient evidence. I was refused bail and escorted to HMP Bedford.

I spent the initial night on the induction wing alone. I did notice I was the talk of the staff and they assumed I had been charged with murder. They said I was "all over the news". The following day I was taken on to the wing. I was about to be put in an empty cell when an officer rushed over and said "no I want you in that one". He pointed to the cell opposite. It was a double cell but I was told the occupant was on some kind of off wing visit. I agreed to go in with no fuss. Prisoners did come over and say, "You don't want to be with him".

I later learnt the guy I was about to share with was very disliked as it was suspected he was a "snitch". After an hour or so the door opened and I was presented with some slob of a man who introduced himself as my cell mate Darren Horner, I shook his hand and told him my name. Little did I know this man was about to destroy my life completely with his lies and false testimony?

To cut a very long story short and what I now know is that he later went to the officer who put me in that cell and told him I had confessed to three murders. I had apparently also confessed my entire life story all in little over an hour of meeting him for the first time. The amazing thing is I had just been in police custody for 9 days and confessed nothing. Why would I confess anything to a man who later admitted I had been nervous of him as I had suspected

him of being a Traveller? Darren Horner provided details of the Fred Moss murder stating that I had shot him and disposed of his body. He gave plenty of different possible disposal sites but no evidence was discovered. Fred's body has never been found.

The police signed him up as a participating witness and gave him tasks to carry out on me. On one he was told to hand over a telephone number and tell me that it was a number of his reliable mate who would get rid of evidence for me. I said I had no evidence to get rid of so did not want the number. The task failed for the police. After about three weeks of my initial arriving at HMP Bedford police came to re-arrest me on suspicion of the murder of Fred Moss. All of the evidence of Darren Horner was presented to me. I either denied what he was saying or provided perfectly good answers for the rest of it. After about three days I was charged with the murder of Fred Moss.

I was taken to court and then returned to HMP Bedford. Horner was nowhere to be seen. Prisoners told me he had been ghosted out to HMP Woodhill. Nobody was surprised he had been informing on me and it later transpired this was not the first time he had done this sort of thing. My long remand time began.

When my trial started in early 2006 many applications were, made by the prosecution to protect some evidence under Public Interest Immunity (PII). This meant the defence could not be privy to it. We could only speculate as to what they could be about. We assumed it was evidence linked to Horner's handling and covert recordings. I was adamant that I had made no confessions to Horner and so if there was a bug I wanted the transcripts released. The judge refused and would give no clear indication as to what the PII hearings referred to. My frustration surrounding this was unbearable and I allowed it to consume me. All of my thought was on it night and day. It was going to be my word against his. Once his evidence was allowed everything else fell into place for the prosecution. Innocent things became sinister things and I struggled to explain the simplest of things. I was later convicted by a majority and given a life sentence with a minimum term of thirty years.

I was in a state of disbelief. I soon lodged a privately funded appeal, which was passed by the first judge but later rejected at the next stage by the three. I refused to give up and instructed a fresh legal team. Four years past but I was still actively preparing a case to be presented to the CCRC.

In July 2010 whilst being held at HMP Frankland I was told I had a legal visit. I asked whom my visitor was I was told it was two Hertfordshire detectives I refused the visit. An hour or so later two detectives arrived on the wing and I was charged with the murder of a Mr. Riley Workman. I was gob smacked. This murder had taken place in 2004. It was the unsolved killing of a retired colonel. At the time rumours were rife as to why he had been shot in cold blood. Suggestions were that it could have been mistaken identity as he shared his surname with a well-known judge or that he could have been a paedophile.

There was actually no factual evidence of anything. To the locals he was a private pleasant man who lived alone after losing his violent alcoholic stepdaughter who drank herself to Death and the loss of his much loved wife to a long difficult illness. Riley presented as a truly devoted husband who now faced life alone as a widower. Riley employed a carer for his wife and when his wife died he decided to keep her on as his own. The carer was a local woman called Jossette Swanson. She had a dishonest past. I myself became aware of Riley through my line of work. I had removed a couple of wasp's nests from the exterior of his home. I myself have never been inside Riley's home. I had only ever met Riley on one occasion when he paid me for one of the jobs. The other time either Jossetie or his cleaner had paid me. No other relationship existed between myself and Riley and the trial judge agreed with that.

A week or so after being charged with Riley's murder I was taken to court and then to

Serious Failings Contributed to Death of Sarah Higgins at HMP Bronzefield

The inquest into the death of Sarah Higgins at HMP Bronzefield concluded on 28 October 2013 with the jury finding that serious procedural failings and inadequate formal training contributed to Sarah's death. Sarah died on 8 May 2010 aged 30. At the time of her death, Sarah had three children aged 5, 6 and 11. Sarah was discovered unresponsive on the floor of her cell shortly before 4.30 am by a Prison Custody Officer. Emergency resuscitation was unsuccessful and she was pronounced dead at 4.48 am. A Kinder Egg containing various drugs was found in her clothing.

Before arriving at HMP Bronzefield, Sarah had been in the custody of Sussex Police following her arrest on 5 May 2010. Whilst in police custody she was on constant watch due to police officers having witnessed what they suspected to be Sarah secreting drugs. On 7 May 2010, Sarah was taken by SERCO escort officers to Brighton Magistrates Court where she was remanded into custody at HMP Bronzefield, a private prison run by Sodexo. Sarah was accompanied by a Prisoner Escort Record (PER) that had recorded on it risk indicators, including the real concern that she may have secreted drugs, the fact that she had been on a constant watch at the police station and details about medications that had been given.

The jury at Sarah's inquest heard damning evidence concerning the failures to communicate and act upon the risk information contained in the PER form, in particular the risk that she may have secreted drugs. Serious concerns were also raised in respect of the failure to provide prison healthcare staff with medical information accompanying the PER. Alarmingly, healthcare staff gave evidence that they did not routinely receive medical documents arriving with new prisoners and some were unaware that prisoners arriving at HMP Bronzefield were accompanied with a PER form that could contain health information. The jury heard evidence from the GP who prescribed methadone to Sarah in reception. The GP accepted that had he been aware of the risk that Sarah may have secreted drugs, as contained in the PER form, his prescribing decisions, including in respect of methadone, may have been different. The inquest also heard about the findings from the NOMS Review into Unclassified Prison Deaths between 2010-2011. This Review found that methadone was particularly toxic at night, and that in 13 out of the 17 methadone-related deaths investigated the person was found dead first thing in the morning or could not be roused.

The jury concluded that serious procedural failings and inadequate formal training led to important details on the PER not being passed to healthcare staff and that this would likely have impacted on the medication prescribed and administered to Sarah. The jury also concluded that in view of the suspicion of secreted drugs and the prescription of methadone and other medications, Sarah should have been admitted to healthcare where she could have been closely monitored and observed. Sarah's death was the first of two deaths in worryingly similar circumstances at HMP Bronzefield within ten months of each other.

Sarah's mother, Deborah Higgins said: "I feel very angry about what happened to my daughter Sarah. The evidence I heard during the course of the inquest showed me how horrific the last few days of her life had been. Witnesses told us one after another how it was an 'oversight' that they did not read and act upon the information contained in the PER that accompanied Sarah to the prison. The word 'oversight' should not exclude them from any accountability. These serious failures subsequently led to Sarah being prescribed methadone and several other medications. The inquest heard evidence from an expert that methadone is very toxic especially when given at night, as happened to Sarah, and that individuals need to be closely observed. The prison failed to recognise this risk and did not monitor Sarah's health appropriately. As a consequence, I have lost my daughter and her three children have lost a loving mother." Deborah Coles, co-director of INQUEST

Susan May - Hostage of the State 1993/2005

It is with great sadness that we announce the passing of Susan May on Wednesday 30th of October 2013. Susan was jailed in 1993 for the murder of her aunt, on the flimsiest of evidence, comprising mainly of three alleged fingerprint marks claimed to be hers that were said to contain the victim's blood. There are doubts about the testing method, about whether the marks are May's fingerprints - and even whether they contained human blood. Another piece of evidence against May was a remark she allegedly made to a police officer relating to scratches found on her aunt's face which the prosecution claimed she could not have known about unless she had caused them. Susan never stopped fighting the conviction inside prison and every day from when she was released in 2005, An inspiration to all those fighting against wrongful imprisonment, she will be sadly missed.

The Benefits Of Hidden Document Data *Neil Smith - Police Oracle, 28/10/13*

In a series of tips about how to use open source intelligence (OSINT) for crime investigations, Neil Smith explains what data is hidden in word documents. With all prosecution files moving over to become digital, officers should be aware of the problems and investigative opportunities that arise through digital office documents. When you hand write a statement then that's all there is. But when you type a statement using something like Microsoft Office or Word, then there is a lot more to it than what you see when you print off a copy.

Some examples of Meta data that Microsoft state may be stored within your documents include: • Your name • Your initials • Your company or organisation name • The name of your computer • The name of the network server or hard disk where you saved the document • Other file properties and summary information • The names of previous document authors • Document revisions • Document versions • Template information • Hidden text or cells • Personalised views • Comments • This may not seem troublesome to you but that could be because you do not actually understand it. Do you always start a fresh blank word document when you write a statement or operational order? If you are honest you will say no, as I don't - I just open up a new document from the last one I wrote and then change the details. We all do it all of the time. The trouble is that Meta data can include previous drafts and alterations. So those first drafts of a statement that didn't quite fit in with what your colleagues said in their statements can now be resurrected. The previous operational orders which you were hoping to keep secret can be read because they are under the one that was released in disclosure.

You can also identify where on a hard drive a file has come from, so if you save letters to solicitors in a folder called "fobbing off idiots" or something similarly offensive, then it might be discovered and be used to discredit you and your credibility.

I occasionally have to request copies of documents from people, be it from legal departments or as a result of Freedom of Information requests and I always ask for digital copies to be sent as it will save them trouble of printing things off and having to pay for postage. Obviously the real reason I want the digital copies is so I can check them all for Meta data, which might help me in my enquiries, and it does frequently. If I do this to them then you should consider that the press and lawyers might well do it to you. Something like www.informatica64.com, which is listed on the favourites page under hidden details, shows the same information as using Foca which is listed on the software page of my website www.uk-osint.net. This is good at locating hidden data including the email address of the person who emailed it out of an organisation, useful if dealing with leaked documents. So Meta data should be of interest to you, it is to me as an investigator.

HMP Woodhill, Horner had long since left and was at liberty reportedly enjoying the £100,000 reward offered to him by the travellers for giving evidence against me. Sadly we can only confirm that the reward was offered but the police and Horner himself refuse to confirm if he took it. The Only proven reward we can prove Horner accepted was the one given to him by the author Peter Bleksly whilst Horner was giving evidence at the Fred Moss murder trial.

We were only told this some 4/5 years later leading up to the Workman trial. The prosecution clearly felt it would be best not to disclose this information to the defence as it would show Horner was motivated by money to give evidence against me. Tapes Later surfaced of Horner stating that he could take Bleksley to a location and recover murder weapons linked to me and the murder of Fred Moss and Workman. Horner later admitted he was lying and he knew of no hiding place. Peter Bleksley allowed himself to be conned, that's surprising, as he is an ex top copper!! Shame we did not know this during the first trial, as I may now be a free man.

The Riley Workman trial was eventually set for October 2012 at Northampton Crown court. The prosecution were yet again relying on the evidence of Horner. The Prosecution admitted in court that if Horner did not give evidence then I would have no case to answer and they would offer no evidence. Therefore any demands Horner may or may not request would be met as he knew how much he was worth to Hertfordshire polices cold case review team.

The Judge allowed the prosecutions bad character application on myself so this meant my murder conviction relating to Fred Moss could be presented to the jury. This was the best news for the prosecution as they could now argue that there was some kind of link between the said murder of Moss and Workman. This allowed Horner to elaborate on his ludicrous story that at some point Workman had sexually assaulted Moss and in revenge I had killed Workman. He could then say that Moss was threatening to go to the police to say I had murdered Workman and so I then murdered Moss. No factual or forensic evidence has ever been discovered to even suggest Moss had ever met Workman and the only evidence offered was that of Horner's story.

Horner was also still adamant that I had confessed to a murder in Australia. No murder matching his story has ever been discovered and I proved I have never been to Australia. During trial many witnesses were called, some said that they had heard what sounded like a gunshot at around 8:00 pm on the 07/01/04 but little notice was taken as it was assumed someone was shooting foxes due to the rural location.

Mr Davidson QC confirmed I was not a regular visitor to Workman's property and had only been there briefly over a period of a couple of years to carry out professional work. No forensic evidence linked me to Riley Workman or the scene. On the morning before the discovery of the body the milkman said in his statement that he had delivered milk at around 6:00 am on the 08/01/04. It was dark and raining, he said all seemed normal and no lights were on at the property. He positioned the milk close to where Workman's body was to be discovered moments later, if you are to believe the testimony of Jossette Swanson. Jossetie said she arrived around 6:00 am it was dark and raining. The house was illuminated and lights that were not usually on were, she also said the outside light was on. It was pointed out to her that she never mentioned the outside light being on in her statements. She said she must have made a mistake, she said the door was wide open with Workman's leg outside. At one stage she said he had slippers on but it was pointed out to her that that was not the same as her statement and she agreed a mistake. She further said, "I leapt out of my car and went over. His right leg was over the threshold. He'd gone down on his back. I assumed he'd died of a heart attack".

It was later discovered he had been dead for hours. This is the point when a very small framed

60 odd year old lady turned into wonder woman! She Said "I bent down and pulled Riley into the house by grabbing his shoulders. I then covered him with a duvet". Workman weighed 14 stone plus. Why do all of this before calling for help? What she did do was first ring her husband and then the Davidsons opposite. It was Mr. Davidson who phoned the ambulance.

Patricia Coppin arrived from Hertfordshire emergency services. She said that she thought it strange that Workman's leg was dry particularly if you believe Swanson's statement that his leg was over the threshold and it therefore would have been all night.

At this point nobody noticed that Workman had been shot in the upper stomach area. Within the next couple of hours a police officer, doctor, neighbours and priest all visited the scene. Nobody noticed any foul play.

One very puzzling thing was that Patricia Coppin said that another ambulance had been called for at around 5:00 am that morning. But the address given was Holly Hock cottage a name used years earlier for Workman's house. All the locals knew it as 'Cock House'. If Swanson were correct then that ambulance crew would have seen lights on and his door open. They did not a mistake? I don't think so.

How can Swanson's account be so different to everyone else? The ambulance crew said that they had driven by Workman's actual house a few times-and if they had-have-had the correct current name of the house then they would have gone there. They also confirmed it was dark and raining. They then decided to go to the location of the original phone call, which was a public phone box in a nearby village called Braughing. They found nothing and cancelled their call putting it down to a hoax.

Who made that call? A full transcript was released to the public to try and identify the caller. The caller is said to be male and in his sixties. Many people under went voice analysis including myself. No matches have so far ever been found.

The only evidence linked to that call came from a local lorry driver who was driving past the phone box at around the time of the call his evidence was that he saw a middle aged man walking past the front side of what he thought was a discovery 4x4 towards the phone box. Jossette Swanson owned a land rover free lander and a Suzuki Jimni. I owned a Mitsibushi warrior pick-up and a Range-Rover. My Range-Rover had a very distinctive number plate reading "Soho"; most locals linked this vehicle to myself. The lorry driver was asked if he noticed any unusual features he said no. Pressed by the prosecution he said it could have been a Range-Rover. Checks later revealed that there was in excess of 1500 similar vehicles in the surrounding area.

Pc Townesend was the first policeman on the scene. He arrived at about 7:00 am and understood it to be a sudden death and had no reason to suspect that Workman had not passed away from natural causes. He said he then carried out the proper procedures. He checked there was no forced entry and that no items were missing. All seemed fine he made records in a notebook of what people were saying. He recorded Swanson saying that she had arrived the night before at around 7-7:30 pm and left at about 9:30pm. Neighbours heard a gunshot at around 8:00 pm.

It was the undertaker Michael Davenport who made the discovery that the death had not been by natural causes. He arrived at the house at about 10:00 am that was 4 hours after the discovery of Workman's body. He was still lying there on his back with his feet towards the door. To get him on the stretcher he rolled the body. He noticed blood on the floor and a pellet, which he pointed out to the police officer. In the course of this Workman's top rode up and he: could see that there were puncture wounds which he described as looking like he had been "stabbed with a pitch fork". He saw Swanson who had been at the neighbours house and

to poor single mothers who are now typecast not as poor but as deviant and a problem group who should be socially excluded and shamed, just like ex-prisoners. The steady increase of the female prisoner population is undoubtedly a symptom of this criminalisation of poor claimant-dependant women and their increasing relegation to the margins of society.

Again, this virtual criminalisation of benefit claimants who 'want something for nothing' draws it's inspiration from the U.S. where the transformation from welfare to 'workfare' (forcing the unemployed to 'earn' their benefits by participating in cheap labour programmes) and the increasing change from welfare state to penal state in it's treatment of the poor took place over twenty years ago.

Within the prison system itself, apart from its growing privatisation, the neo-liberal approach has jettisoned completely any pretence of rehabilitation and replaced it instead with the bureaucratic, managerialist model of box-ticking, exemplified by offence-related courses managed by prison-hired psychologists and which statistically have no appreciable effect on re-offending rates. As far as most prisoners are concerned offence-related courses represent little more than obedience tests and just a necessary prerequisite for parole or transfer to lower-security institutions. 'Telling them what they want to hear' is a strategy accepted and agreed on by both prisoners and those administering the courses. There is of course a huge social and existential divide between the prisoners who attend these courses and those managing them, usually middle class psychologists and trainee psychologists who have little or no concept of the social conditions and circumstances that shaped the 'offending behaviour' of most prisoners, and so they apply a crude form of moral behaviourism to prisoners criminal and anti-social behaviour (apart from that of financial capitalists of course) that has nothing to do with social deprivation and extreme disadvantage, and everything to do with defective moral choice-making, rather like that of poor single mothers 'scrounging off the state'.

The prison-industrial complex, the finished product of neo-liberalism in the field or market of criminal justice, is not just reducible to prison privatisation, it also shapes and influences a set of institutions, practises and ideologies based on fear, punishment and control, as exemplified by the American experience. In the U.S. there are over 2.3 million people in prison, and more than twice as many people under direct state supervision, and virtually all are from a well-defined social group: the poorest and most dependent on social welfare and assistance. This mass criminalisation of the poor is beginning to find expression here in the U.K. With a popularised contempt of welfare recipients and the urban 'underclass', and a growing consensus that penal policy should replace welfare policy as a means of dealing with them. Through a slavish imitation of the U.S. criminal justice system Britain now has the highest imprisonment rate, the most overcrowded prisons, the severest sentencing practises, and is one of the worst abusers of prisoners human rights in Europe. As the social democratic model that characterised Britain since 1945 continues to fracture and break in the face of unrelenting U.S. style neo-liberalism the welfare state will be replaced by the penal state and the treatment of the poor will resemble a sort of punitive containment supervised by parole officers in everything but name.

Police Officers Sacked for Tasering Innocent Man Five Times in the Back

Two police officers have been sacked after an innocent man was Tasered five times in their van, it was revealed last night. Kyle McArdle, 26, said he passed out from the excruciating pain inflicted by the 50,000-volt weapons after he was dragged from the street. He was shot in the chest, stomach and leg at point-blank range as up to three officers assaulted him.

After four years of wrangling, in which Merseyside Police insisted they did nothing wrong, PC Simon Jones and PC Joanne Kelly were fired for gross misconduct. *MailOnline 21/10/13*

It is submitted the judge erred in ruling that the evidence was admissible given the defence case was that the principal witness was mistaken in his identification, and that the lies told by the applicant in interview as to his sexual past did not justify the judge's decision to admit the evidence. In all the circumstances, it is argued that the introduction of this material was unfair and it had an adverse impact on the trial. Although the prosecution in its written submissions sought to uphold the judge's decision.

Miss Ellis for the prosecution accepted during oral submissions – in our view fairly and properly – that the 1985 conviction was a highly prejudicial piece of evidence, and she conceded it was inadmissible. In those circumstances, she did not seek to uphold the judge's decision, in which he had granted the Crown's application to admit this evidence. At the conclusion of the hearing we allowed the appeal and quashed the convictions on both counts.

Full judgement: <http://www.bailii.org/ew/cases/EWCA/Crim/2013/1851.html>

Neo-Liberalism and Prisons By John Bowden, HMP Shotts

Neo-liberalism, an ideology and concept usually associated with a particularly ruthless brand of free-market economics, has now reached into the very core services of the state and institutions that were once considered strictly off limits to financial speculators and entrepreneurs: the NHS, the prison system and the criminal justice system. Neo-liberalism doesn't just involve a massive shift of economic power and wealth to an already extremely powerful and wealthy social group, but also a fundamental shift in the philosophy and policy of organisations like the welfare and criminal justice systems, both of whose 'clients' are now increasingly lumped together as an undifferentiated mass of the 'undeserving poor' or an always potentially criminal 'underclass' requiring an equal degree of punitive supervision, surveillance and 'management'. For the poor the welfare state is becoming increasingly like a carceral state.

The change of philosophy and policy as far as the criminal justice system is concerned is especially reflected in the treatment of those subject to judicial supervision orders and conditions of parole, and the changing role of probation officers and criminal justice social workers from a 'client centered' and rehabilitative approach to one far more focused on strict supervision and 'public protection'. Occupations that were once guided to a certain extent by the rehabilitative ideal have now become little more than an extension of the police and prison system and abandoning any vision of positively reforming and socially reintegrating the 'offender' now instead prioritize punishment, social isolation and stringent supervision. This replacement of the rehabilitation model with a more managerialist one enforcing ever more 'robust' and invasive conditions of parole and supervision renders it's subjects increasingly less as prisoners being returned to freedom and more ones waiting to be returned to prison for technical breaches of licence conditions. As with all things neo-liberal the increased focus on the strict supervision and surveillance of ex-prisoners and 'offenders' draws it's inspiration from the U.S. and it's parole officer system with a total emphasis on the straight-forward policing of parolees. It's also a form of supervision increasingly extended into the lives of the poor generally, especially those dependent on welfare and state benefit, the social group from which prisoners are disproportionately drawn. In an age of economic deregulation the marginality and inequality of the poor has increased to such an extent that they are now almost demonised and subjected to the same penal-like supervision as ex-convicts.

Tory politicians and the media now stigmatise with a zest benefit claimants as 'scroungers', 'shirkers' and potential criminals, and this stigmatisation and marginalisation is applied most viciously

she said" is it suspicious and I hope that they don't think that I did it". He found that to be an odd thing to say, as at that time she was not aware of the undertaker's discovery.

It was later discovered that Workman had been shot with a shotgun at a range of about 12 feet. The cartridge used was said to be 12 gauge and contained 9 SG shot. Death would have been immediate. Jossette Swanson was made a person of interest along with her husband and son. The Police later said they could find no evidence to link them to the murder. Did She have motive? My legal team and myself said she did. During the time Workman employed her, she not only took a very healthy weekly wage off of him for minimal work but she and her family also managed to convince Workman to give them thousands of pounds in hand-outs. They used the money for things like a tow bar for one of their cars, health advice and paying off past legal fees. Workman also bought Jossette a brand new jeep! Even though she had the use of three perfectly good vehicles.

Weeks before his demise she also learnt that on Workman's death she would be a beneficiary as he told her that he was going to include her in" his will'. Did she know that his estate was valued at one million pounds? What we do know is that the Swanson's were hugely in debt even though they lived in a tied house and had no mortgage. They spent thousands of pounds but the defence has never been able to find out what on. The Police investigation did not delve deep enough and many aspects of the Swanson's lives have been over looked.

The Workman trial came to an end, it was now down to the jury. After almost 18 hours of deliberation they found me guilty by a majority. The Judge re-sentenced me as if he was sentencing me for the Moss murder as well. My sentence was therefore again now life but with a 32 year tariff, my legal team said to me from day one that my conviction for the Moss murder was enough to convict me in this one as it is human nature to think if I was apparently capable of one murder then it was probable I'd done another. I can understand that as that is the way I thought previously.

Looking back I can maybe understand why I was convicted for the Moss murder. I did not help myself I Lied about certain things. I was worried about reprisals from the over bearing Travelling community on my friends and family if I disclosed aspects of their lives.

What I am sure of and have always protested is the fact that I am innocent and no murderer. What saddens and sickens me is that the police have been allowed to link these murders in order to clear this Workman murder investigation up. They knew they screwed the investigation up from the very start by missing the fact that the poor guy had been murdered. Crucial evidence leading to the identification of the killer was probably lost. Where does that leave me? I say it leaves me languishing in a prison cell for the rest of my life for two crimes I did not commit. Now have an appeal hearing listed for the three-judge stage for the Workman conviction. I really am not positive, as my first conviction is the backbone for this conviction. I face an up hill struggle.

We have managed to get some evidence relating to one of the PII hearings originally in the Moss trial it related to the fact my social visits table was fitted with a recording device. That has proven that I confessed nothing. What I really want is any possible recording transcripts, which were done in cell to prove the conversations, which Horner said, took place, did not take place.

I need fresh evidence relating to Horner's handling before my arrival at HMP Bedford and after. I need new information with regard to Riley Workman's life. Did he have a secret past and skeletons in the closet? I need to know more about the Swanson's, as I truly believe they hold the key to so much. I need to know who made the original 999 call in the Workman case. Was it the murderer or someone linked to the killer? Above all I need someone with a conscience to come forward so that I can get my life back.

Chris Xavier: A4472AE, HMP Frankland, Brasside, Durham, DH1 5YD

Court of Appeal Refuses Anonymity For Offender *Rosalind English, UK Human Rights Blog,*

Fagan, R (application of) v Times Newspapers Ltd and others [2013] EWCA Civ 1275 -

Only "clear and cogent evidence" that it was strictly necessary to keep an offender's identity confidential would lead a court to derogate from the principle of open justice. The possibility of a media campaign that might affect the offender's resettlement could not work as a justification for banning reporting about that offender, even though a prominent and inaccurate report about him had already led to harassment of his family. This was an appeal by a serving prisoner, SF, against the dismissal of his application for anonymity and reporting restrictions in judicial review proceedings.

Legal and factual background: In 2006 SF was sentenced to fourteen years' imprisonment for two offence of rape and one offence of administering a drug with intent to commit an indictable offence. The offences were committed in England. However, SF comes from Airdrie in Scotland. At the time of the offence he was a married man with two daughters. They had continued to live in Airdrie. The offences of SF had a large impact on his family because his offending became known in Airdrie and his daughters suffered harassment and unpleasantness at school.

In 2012 the appellant requested a transfer to Scotland so he could be released on licence there. When the secretary of state refused the transfer the appellant brought judicial review proceedings, which were due to be heard in December 2013. In the meantime a local newspaper printed a sensationalist and partly inaccurate article about SF's attempts to be resettled in his home town. The article featured his name and photograph, and claimed, wrongly, that SF had been charged previously with "molesting young girls". The newspaper was subsequently obliged to correct this "egregious" error, but the correction and apology were set out in small type on page 2 and only six weeks later.

Irwin J refused his application for an order anonymising him in any reporting of the proceedings, even though he acknowleged that the daughters' witness statements that their lives been "severely disrupted" given the harassment and unpleasantness they had suffered on account of their father's imprisonment. Nevertheless the judge found that public hostility to the appellant had been a natural consequence of his offending and that there was a legitimate public interest in the resettlement of offenders. The Article 10 rights of the public should in his view prevail over the Article 8 rights of SF and his family. By the time of this appeal, SF had been recalled to prison and his transfer to Scotland had been approved.

The appellant argued that the judge had not had proper regard to all the relevant factors. He submitted that there should be a derogation from the principle of open justice because there was a significant danger that there would be a media campaign calculated to undermine his rehabilitation and it was necessary to consider his and his daughters' rights under the European Convention.

The appeal was dismissed - Reasoning behind the judgment

The appellant's situation had changed since the judge made the original decision: he as detained and there was no likelihood of his immediate release. In that respect it was different from the situation that existed when the matter was before Irwin J but the starting point was the same, which was the general principle of open justice. The court would only agree to a derogation from that general principle if there was clear and cogent evidence which established that such a derogation was strictly necessary in the interests of justice. It depended on the facts of the particular case (<http://www.bailii.org/uk/cases/UKSC/2010/26.html>Secretary of Sate for the Home Department v AP [2010] UKSC 26).

There was nothing in the appellant's position as an offender which justified such a derogation.

tariff on distinct grounds of dangerousness and, in a case such as the present where there has been a release and a recall, the judge of his dangerousness is the Parole Board.

This, in my view, does not ...the fact that the reason why such a detainee is subject to the regime of recall by the Secretary of State and later determination by the Parole Board, is the fact of his conviction and sentence for murder. The reason why the remand prisoner is subject to the regime of trial and possible court order by way of sentence is the fact of his having been accused of a crime. These two circumstances seem to me to set the two cases wholly apart."

Miss Kaufmann QC seeks to finesse away to what my mind is a clear statement of principle by arguing that it should be confined to its bare facts and is applicable only to a case where a claim for housing benefit has been stopped. Of course that kind of reasoning can lead to the subversion of every statement of principle. In my view, Laws LJ was not seeking to confine his view only to the housing benefit class of case.

The differences that he identifies between a claimant in the position of the claimant there and the claimant in this case, on the one hand, and an unconvicted police, on the other hand, is my mind of general application and is binding on me. I therefore conclude that there is no analogous comparator here and that this is not a case where like cases have been treated differently.

The further question is whether, if I am wrong on my first two conclusions, and that this is in fact a case where discrimination has occurred, whether such discrimination is "manifestly without reasonable foundation" (see Stec v United Kingdom (2006) 43 EHRR 47). In the light of my clear conclusions on the first two points this question is now wholly hypothetical. However, I do express the view that if this is in fact a case of discrimination, then it is by reference to a highly peripheral outlying factor where the extreme scrutiny demanded in relation to those factors closer to the centre does not apply. It is impossible to say that even if there is differential treatment for like cases here, that it is manifestly without reasonable foundation. Indeed, in some respects, the different treatment on a purely practical level is not only reasonable but necessary. For all these reasons the application for judicial review is dismissed.

William George Laws-Chapman - Historic Sexual Conviction Quashed

On 8 July 2013 in the Crown Court at Maidstone the applicant, who is now aged 89, was convicted by a jury of indecency with a child under the age of 14 contrary to section 1(1), Indecency with Children Act 1960 (count 1) and buggery with a person under the age of 21 contrary to Section 12, Sexual Offences Act 1956 (count 2), in each instance between 1 January and 31 December 1978. He was sentenced by H.H. Judge Griffith-Jones QC to concurrent terms respectively of 2 years' and 8 years' immediate imprisonment. The sole issue raised on this appeal is whether, in the context of two historic sexual offences dating back to 1978 which involved an allegation of violent, paedophile behaviour against the will of the victim (who was 12 or 13 years of age at the time) the judge was right to admit in evidence a single conviction for buggery in 1985, involving a 17 year old, which may well have been consensual and when the court had no details relating to the latter offending, save as regards the identity of the victim and the location of the offence.

Submissions: The applicant suggests that the judge wrongly admitted this evidence, given it related to a single conviction for buggery that post-dated the current offence and involved a victim (aged 17) who was significantly older than SB. It is argued the later conviction lacked probative value, given the absence of similarity beyond the fact that it was an offence against the same legislative provision; furthermore, the facts of the previous conviction were essentially unknown save as regards its location.

sentence as an acquired personal characteristic and a lifer as having an 'other status', and it is hard to see why the classification of Mr Clift, based on the length of his sentence and not the nature of his offences, should be differently regarded. I think, however, that a domestic court should hesitate to apply the Convention in a manner not, as I understand, explicitly or impliedly authorised by the Strasbourg jurisprudence, and I would accordingly, not without hesitation, resolve this question in favour of the Secretary of State and against Mr Clift."

This suggest a certain amount of equivocation as to whether the type of sentence that is the indeterminate (but potentially for life) sentence is "another status" under Article 14. But having wavered it is clear to me that Lord Bingham concluded that it was not. Lady Hale was in no doubt that it was not - see paragraph 62 where she stated: "But a difference in treatment based on the seriousness of the offence would fall outside those grounds. The real reason for the distinction is not a personal characteristic of the offender but what the offender has done."

Her opinion was adopted by Lord Bingham in paragraph 39 and his opinion was adopted by the other members of the Committee. Therefore it seems to me, on analysis of the opinions, that the true ratio is precisely what Mr Strachan QC says it is.

Therefore my first conclusion is that Article 14 is not engaged on the facts of this case.

If I am wrong about this I have to consider whether there has in fact been discrimination. A clear and short definition of what constitutes discrimination was given by Lord Hoffmann in the case of R (Carson) v Secretary of State for Work and Pensions [2006] 1 AC 173, at paragraph 14: "'Discrimination' means a failure to treat like cases alike. There is obviously no discrimination when the cases are relevantly different. Indeed, it may be a breach of article 14 not to recognise the difference: see Thlimmenos v Greece (2001) 31 EHRR 15. There is discrimination only if the cases are not sufficiently different to justify the difference in treatment. The Strasbourg court sometimes expresses this by saying that the two cases must be in an 'analogous situation': see Van der Mussele v Belgium (1984) 6 EHRR 163, 179-180, para 46."

I have already explained why the case of the claimant, on the one hand, and the case of an unconvicted or civil prisoner on the other hand are most certainly not alike - indeed they could hardly be more different. That opinion is based on my own view of rationality and common sense but it is supported by authority. In Waite v London Borough of Hammersmith and Fulham & Anr [2002] EWCA Civ 482, the claimant had also been sentenced to be detained at Her Majesty's Pleasure, in that case for the murder of his grandmother when he was aged 16. He had been released on licence but had been recalled. During the period of his release he had been granted housing benefit to pay his rent. On his recall that housing benefit was stopped. It would not have been stopped if he had been a person accused of a crime who had been remanded in custody. He claimed that he had been discriminated against under Article 14. His claim was dismissed at first instance and his appeal was refused. In his judgment Laws LJ stated at paragraph 30:

"As it seems to me, this argument isolates a single procedural parallel between the role of the court and the role of the Parole Board, and to treat it as founding a similarity between the cases of the HMP detainee and the remand prisoner big enough to make an Article 14 case in the light of the differential treatment of those two classes for the purposes of housing benefit. I have to say that I consider the enterprise to be a failure. The HMP detainee has been convicted of murder. The remand prisoner has not been convicted of anything.

He enjoys the presumption of innocence. Section 32(6) of the Crime (Sentences) Act 1997 indicates that the HMP detainee's liability to continue detention is or would be 'in pursuance of his sentence'. I quite accept that the HMP detainee can only lawfully be detained after

He had been convicted of very serious crimes and his conviction was public knowledge. He was in no different position from other serious offenders with families. A hostile press might inhibit his resettlement, but that was a risk that was likely to be present in many such cases where serious offenders were released on licence into the community and it could not be a general justification for banning reporting about the offender. The court was confident that although they might suffer some infringement of their Article 8 rights, there was no question in this case of any "real and immediate" threat of violence to either SF or his daughters, whether as a result of any press campaign or otherwise, so there was no threat of a violation of their Article 3 rights.

The judge had appreciated that danger and taken it into account in his balancing exercise. The appellant's daughters had already been identified in press reports and any reporting restrictions would not stop speculation in the local area about whether he as to be released into the community, thus further affecting their rights. Irwin J had taken all relevant factors into account when deciding whether there should be a derogation from the general principle of open justice and he had come to a reasonable decision.

Human Rights at Risk When Secret Surveillance Spreads

The fear of terrorism, technology that is developing at the speed of light, private companies and state security agencies compiling personal information – this topical mix has become a severe threat to the right to privacy. Despite the intentions, secret surveillance to counter terrorism can destroy democracy, rather than defend it.

Recent revelations, many of them based on files from the whistle-blower Edward Snowden, have showed the stunning scale and sophistication of the surveillance to which we can all be subjected. The US intelligence agency, the NSA, and its British counterpart, GCHQ, target encryption techniques that are used by Internet services such as Google, Facebook and Yahoo, making them vulnerable to surveillance. There is extensive co-operation between different security agencies – but also between such agencies and private companies. All this leaves us open to abuse of our fundamental human right to privacy.

In an Op-ed published in the Guardian in late June I mentioned Google CEO Eric Schmidt, who sees no risk for people sharing information with Google and argues that if you've nothing to hide, you shouldn't worry.

At this point it has become obvious that this is not advice to live by.

Co-operation between the NSA and European countries: Surveillance is not an unknown phenomenon in the UK; security cameras are mounted on virtually every street corner. But the extent of the co-operation between GCHQ and the NSA came as a shock. After the Guardian published a large number of revealing articles, the matter took yet another unexpected turn when the newspaper, after strong pressure from GCHQ, destroyed hard drives containing Edward Snowden´s leaked NSA files. The decision was, according to the Guardian's editors, taken following the threat of legal action by the government that could have stopped further reporting on these matters.

The documents from Edward Snowden also show that the NSA has been spying on the EU in New York and that GCHQ was behind a cyber attack against Belgacom, a Belgian telecom company whose major customers include institutions like the European Commission, the European Council and the European Parliament.

In Germany, the documents revealed that "the intelligence service, BND, sends massive amounts of intercepted data to the NSA". And investigative journalist Duncan Campbell said while testifying before an EU parliamentary committee charged with investigating elec-

tronic surveillance, that the Swedish National Defence Radio Establishment, FRA, has shared access to communication cables in the Baltic Sea with the NSA. This has allowed both agencies to circumvent legislation banning domestic surveillance – despite the fact that European states are obliged to protect individuals from unlawful surveillance carried out by any other state and should not actively support, participate or collude in such surveillance.

In France the authorities' reaction to the Snowden files was quite different to those in Britain or Sweden. First, the chief of staff of the Prime Minister's private office sent a letter to government ministers warning them that they and their staff should only use approved smartphones to discuss sensitive matters and dedicated secured means to convey classified information. Then, following new revelations published by Le Monde reporting extensive electronic surveillance carried out by the NSA and massive collection of data concerning not only suspected terrorists but also stakeholders of economic and political circles as well as civil servants, the French president called these practices totally unacceptable and spoke with his American counterpart to obtain explanations.

Effective guarantees against abuse needed: The European Convention on Human Rights, by which all 47 member states of the Council of Europe are bound, spells out the right to respect for private life, and access to an effective remedy to challenge intrusions into our private lives.

States, of course, have a duty to ensure security within their borders and in doing so they can undertake secret surveillance of individuals who can pose a threat. But adequate and effective guarantees against abuse are needed. This can be achieved through legislation that strictly abides by the case-law of the European Court of Human Rights.

The Court has delivered many rulings concerning the protection of privacy and personal data. In order for surveillance to be in line with the Convention, as a minimum, three main safeguards should be provided. *First of all*, the law must be precise and clear as to the offences, activities and people subjected to surveillance, and must set out strict limits on its duration, as well as rules on the disclosure and destruction of surveillance data. *Secondly*, rigorous procedures should be in place to order the examination, use and storage of the data obtained, and those subjected to surveillance should be given a chance to exercise their right to an effective remedy. *Thirdly*, the bodies supervising the use of surveillance should be independent, and appointed by and accountable to parliament, rather than the executive.

Indiscriminate mining of data must stop: Private companies and states alike must be more cautious in using data relating to our private life and must avoid any abuses that could arise from indiscriminate mining. For this they must develop surveillance and data collection policies that respect human rights. Necessary & Proportionate is the name of a set of international principles, put together by a large number of civil society groups, industry and international experts, which can be helpful in this regard. Also, the Global Network Initiative, GNI, has set out practical steps to protect human rights online in the report Digital Freedoms in International Law. In this regard, the adoption, on 21 October, by the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, of a text strictly regulating the transfer of personal data from Europe to third countries and providing very heavy financial penalties for companies that do not comply with the rules is an encouraging signal.

As the Strasbourg Court has clearly stated, secret surveillance activities cannot be allowed to undermine democracy under the cloak of defending it. Privacy is a fundamental human right and is essential if we wish to live in dignity and security.

Nils Muiznieks, Commissioner for Human Rights, 24/10/13

all are regarded as important to the development of an individual's personality (they reflect, it might be said, important values protected by articles 8, 9 and 10 of the Convention). Other acquired characteristics are further out in the concentric circles; they are more concerned with what people do, or with what happens to them, than with who they are; but they may still come within article 14 (Lord Neuberger instances military status, residence or domicile, and past employment in the KGB). Like him, I would include homelessness as falling within that range, whether or not it is regarded as a matter of choice (it is often the culmination of a series of misfortunes that overwhelm an individual so that he or she can no longer cope). The more peripheral or debateable any suggested personal characteristic is, the less likely it is to come within the most sensitive area where discrimination is particularly difficult to justify. There is an illuminating discussion of these points (contrasting Strasbourg jurisprudence with the American approach to the Fourteenth Amendment) in the speech of Baroness Hale of Richmond in A L (Serbia) v SSHD [2008] UKHL 42, [2008] 1 WLR 1434, paras 20-35."

Therefore, discrimination based on a core characteristic, or as the Americans put it, on a "suspect" ground, is likely to be beyond the pale and incapable of being justified. Discrimination by reference to a more outlying factor will be more easy to justify.

It has been decided (perhaps surprisingly) by the European Court of Human Rights that being a prisoner per se does constitute another status for the purposes of Article 14: see Shelley v The United Kingdom (2008) 46 EHRR SE16. However, the same court has decided that the type of offence does not constitute another status within Article 14: see Gerger v Turkey Application No 24919/94, BAILII: 1999] ECHR 46. Further, the House of Lords in the decision of Clift v Secretary of State for Home Department [2007] 1 AC 484, decided that the length of a determinate sentence did not constitute another status within Article 14. In that case the prisoner being given a finite sentence of 18 years. Had he been given a sentence of fewer than 15 years, the final say on his release would have rested with the Parole Board but, because his sentence was more than 15 years, the Home Secretary also had a veto. His status as a prisoner serving 18 years was held by the House of Lords not to be a qualifying status for the purposes of Article 14. It is true that later the Strasbourg Court disagreed with this but it is clearly established by authority that it is the House of Lords decision which is binding on me, notwithstanding the later European decision (a fact which perhaps should be more widely known by critics of the system).

It is argued by the claimant that his relevant status is that of being a convicted prisoner per se. Leading counsel for the Secretary of State for Justice says this cannot possibly be right. The claimant's whole argument is based on him being a convicted prisoner serving a certain type of sentence. Although this aspect is not entirely free from doubt, I agree with Mr Strachan QC. On proper analysis the true ratio of the decision of the House of Lords in Clift is that the type of sentence cannot be a relevant status for the purposes of Article 14. This is so whether the sentence type is of a finite term of years or whether it is an indeterminate sentence carrying with it the liability to be indefinitely detained in order to protect the public. It is true that Lord Bingham in paragraph 28 stated:

"I do not think that a personal characteristic can be defined by the differential treatment of which a person complains. But here Mr Clift does not complain of the sentence passed upon him, but of being denied a definitive Parole Board recommendation. Is his classification as a prisoner serving a determinate sentence of 15 years or more (but less than life) a personal characteristic? I find it difficult to apply so elusive a test. But I would incline to regard a life

guilty. Therefore, in my opinion, Prison Service Order No. 4600 rightly in paragraph 1.1 describes unconvicted prisoners in the following terms: "Unconvicted prisoners have not been tried and are presumed to be innocent, the Prison Service's sole function is to hold them in readiness for their next appearance at court. Their imprisonment should not deprive them of any of their normal rights and freedoms as citizens, except where this is an inevitable consequence of imprisonment, of the court's reason for ordering their detention and to ensure the good order of the prison. Instructions or practices that limit their activities must provide only for the minimum restriction necessary in the interests of security, efficient administration, good order and discipline and for the welfare and safety of all prisoners."

It can therefore be seen why there are very good reasons for affording a less rigorous regime to unconvicted and civil prisoners. The only possible anomaly is those civil prisoners who are being actually punished as opposed to coerced. But in such a case the judge who sentenced them will no doubt be aware that the regime to be endured will be less rigorous than that applicable to convicted prisoners and this will no doubt have informed the length of the sentence. Put another way, if the judge thought that the contemnor would suffer the regime applicable to convicted prisoners, that might incline him to be more merciful in his sentence than would otherwise be the case.

On the other hand, a person in the position of the claimant is, in my opinion, in a totally different situation to unconvicted and civil prisoners. He has been convicted of a very serious offence. When released he will carry the badge of criminality until he dies. When released he is liable to be recalled. If he commits a further offence his prior offence will loom large when he is sentenced anew. If he applies for certain kinds of employment he will have to disclose his prior offence. He would be denied a visa to travel to some foreign countries, notably the USA. His situation simply could not be more different to that applying to unconvicted and civil prisoners. It truly is to compare chalk with cheese.

In any event, some of the rights that the claimant argues should be afforded to him are simply impossible. In effect he suggests that he should be accommodated with unconvicted and civil prisoners and kept apart from convicted prisoners. This is almost fantastical and the fact that his leading counsel does not suggest that he should be allowed to vote demonstrates a core fallacy in her argument, in my respectful opinion. If this were a seriously principled argument then why not nail the colours to the mast and demand the right for the claimant to vote also? It is, I imagine, because of the acute controversy that attaches to that issue, namely voting rights for prisoners, that it has been quietly kicked into the long grass.

The first legal question I have to decide is whether the claimant falls within Article 14 at all. In R (on the application of RJM) v Secretary of State for Work and Pensions [2008] UKHL 63, [2009] 1 AC 311, at paragraph 5 Lord Walker stated: "The other point on which I would comment is the expression 'personal characteristics' used by the European Court of Human Rights in Kjeldsen, Busk, Madsen and Pedersen v Denmark (1976) 1 EHRR 711, and repeated in some later cases. 'Personal characteristics' is not a precise expression and to my mind a binary approach to its meaning is unhelpful. 'Personal characteristics' are more like a series of concentric circles. The most personal characteristics are those which are innate, largely immutable, and closely connected with an individual's personality: gender, sexual orientation, pigmentation of skin, hair and eyes, congenital disabilities. Nationality, language, religion and politics may be almost innate (depending on a person's family circumstances at birth) or may be acquired (though some religions do not countenance either apostates or converts); but

Jailed Aged 16 for 3 years - Now 16 Years Over Tariff

Queen on Application of Cossey v Secretary Of State For Justice: In these judicial review proceedings the claimant complains that he has been the victim of wrongful discrimination. His particular circumstances are that he is a convicted prisoner, serving an indeterminate sentence for an especially serious offence, but who many years ago passed the tariff period fixed for punishment, retribution and deterrence. He therefore says that he is being detained only for the purposes of the safety of the public. In these particular circumstances he claims that he should be afforded some, but not all, of the rights and privileges allowed to unconvicted and civil prisoners. The refusal to afford him these rights constitutes, he claims, a violation of Article 14 of the European Convention on Human Rights. This is, as is very well known, provides that: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

In my judgment this claim is absolutely meritless. It is the sort of claim that gives the Convention, incorporated into our domestic law by the Human Rights Act 1998, a bad name and which furnishes its critics with ammunition to shoot it down. The Convention incorporates into our law certain basic precious rights and freedoms (most of which had existed in our law any way). They were formulated in 1950 as a direct response to the tyrannical horrors of the Second World War and the encroachment of Communism. In my own decision of Re: RK [2010] EWHC 3355 (COP) at paragraph 41 I stated: "Although the originalist theory of statutory interpretation is generally eschewed on this side of the Atlantic it is worth remembering the historical context that informed the framing of the Convention in 1950. Art 5 was an important bulwark against totalitarian tyranny.

As Parker J recently reminded us in Re: MIG & MEG [2010] EWHC 785 (Fam) at para 222 its purpose is to prevent 'arbitrary or unjustified deprivations of liberty'. I find it impossible to conclude that the framers of the Convention would even in their wildest dreams have contemplated that Art 5 might be engaged by the facts presented here. Even allowing for the accepted concept that the Convention is a living instrument there has to be a line drawn somewhere where the court will say 'thus far and no farther' (to echo Lord Steyn, writing in a different context in White & Ors v Chief Constable of South Yorkshire Police [1999] 2 AC 455, HL at page 500).

So too here. Sir David Maxwell-Fyfe, later Lord Kilmuir, Lord Chancellor, was the key architect of the Convention. As a prosecutor at Nuremburg he would have been especially alive to the sort of abuses which the Convention was designed to prevent in the future. Were he to be alive today I think he would be amazed to be told that a claim for violation of Article 14 was being advanced on the facts of this case.

Let me deal with the facts in a little more detail. The claimant is 36 years old. In September 1993, when aged 16, he pleaded guilty to an offence of arson being reckless as to whether life was endangered. That was plainly an especially serious offence. He was sentenced to be detained during Her Majesty's Pleasure under section 53 of the Children and Young Persons Act 1933 (which has since been repealed). Either at that time or later (I have not been told which) the tariff period for punishment and retribution and deterrence was fixed at 3 years. The claimant is therefore 16 years post tariff. That he continues to be detained is a result of judgments formed by the Parole Board that were he to be released he would pose a danger to society.

When someone is imprisoned their human rights are necessarily compromised. In my own decision of J Council v GU & Ors [2012] EWHC 3531 (COP), another case under the

Mental Capacity Act 2005, I stated at paragraph 8: "As is extremely well-known, Article 8 furnishes the right to respect for a person's private and family life, his home and his correspondence. But it is not an absolute right and it may be curtailed 'in accordance with the law' where it is necessary inter alia for the protection of health and morals, or for the protection of the rights and freedoms of others. It is well-established that even people in detention, whether in prison or in mental health institutions, retain nonetheless these rights, at least up to a point - that point being that the exercise of the right obviously cannot have the effect of destroying the purpose and function of the detention in question: see R (P and Q) v Home Secretary [2001] EWCA Civ 1151 at para 78. Thus in the case of imprisonment the right does not extend to allowing prisoners conjugal visits, or to possession of mobile phones, or for that matter single cells. On the other hand it does extend to allowing visits from family and friends, the use of payphones, and the sending and receiving of letters. Thus is the balance struck between the exercise of the right and the purpose and function of imprisonment."

Within prisons certain categories of prisoners are obviously treated differently depending on their security classification. The scope of confinement between Category A and Category D are worlds apart. Further, convicted prisoners are treated differently to unconvicted and civil prisoners for the blindingly obvious reason that the prisoners in the latter class are not criminals. In the latter class the unconvicted prisoners have certain rights and privileges not afforded to convicted prisoners. These include:

(a) the right to be visited by a medical practitioner of their own choice;

(b) the right to wear their own clothes; (c) the right not to be forced to work;

(d) the right to send and receive as many letters as they wish;

(e) the right to receive as many visits as they wish;

(f) the right to receive, at their own expense, as many books, newspapers and writing materials as they wish;

(g) the right to have many items for cell activities and hobbies as they wish;

(h) the right to carry out their business activities;

(i) the right to receive a greater quantity of tobacco than is allowed to convicted prisoners;

(j) the right to be separated, as far as is reasonably possible, from convicted prisoners;

(k) the right not to have to share a cell with a convicted prisoner;

(l) the right, in certain circumstances, to continue to receive social security payments; and

(m) the right to vote.

The claimant here seeks to be granted all these rights apart from the last two. He would not be entitled to receive social security payments even if he were unconvicted, so that particular right is academic. I was told by his leading counsel, Miss Kaufmann QC, that he was pursuing the right to be able to vote "by other means".

The only common feature within the class of unconvicted and civil prisoners is that none of them has been convicted of a crime. Otherwise these people are detained for a wide variety of reasons. So far as civil prisoners are concerned, they are likely to be inside either because they have failed to pay a debt or because they have breached an injunction. Historically imprisonment for debt was commonplace and debtors were confined in prisons established specifically for that purpose, where they were afforded all liberties except liberty itself. Thus they could bring in their families, staff and possessions. Imprisonment for debt remains possible for a few types of debt, typically for failure to pay things like maintenance orders, child support and taxes. I described the system in my recent decision of Bhura v Bhura [2012]

EWHC 3633 (Fam). Under section 5(2) of the Debtors Act 1869 an order for imprisonment can only be made where the applicant has: "... proved to the satisfaction of the court that the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default and refuse or neglected or refuses or neglects to pay the same." Thus the purpose of imprisonment can be seen for this class of civil prisoner to be almost entirely coercive.

Where a contemnor is sentenced to imprisonment for breach of an injunction the sentence will be a mixture of punishment and coercion. Thus in JSCBTA Bank v Solodchenko & Ors [2011] EWCA Civ 1241, [2012] 1 WLR 350 Jackson LJ stated: "55. From this review of authority I derive the following propositions concerning sentence for civil contempt, when such contempt consists of non-compliance with the disclosure provisions of a freezing order: (i) Freezing orders are made for good reason and in order to prevent the dissipation or spiriting away of assets. Any substantial breach of such an order is a serious matter, which merits condign punishment. (ii) Condign punishment for such contempt normally means a prison sentence. However, there may be circumstances in which a substantial fine is sufficient: for example, if the contempt has been purged and the relevant assets recovered. (iii) Where there is a continuing failure to disclose relevant information, the court should consider imposing a long sentence, possibly even the maximum of two years, in order to encourage future co-operation by the contemnor.

56. In the case of continuing breach, out of fairness to the contemnor, the court may see fit to indicate (a) what portion of the sentence should be served in any event as punishment for past breaches and (b) what portion of the sentence the court might consider remitting in the event of prompt and full compliance thereafter. Any such indication would be persuasive, but not binding upon a future court."

A person accused of crime may be remanded in custody under Schedule 1 to the Bail Act 1976 (as amended) only in following circumstances: "(2) The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would- (a) fail to surrender to custody; or. (b) commit an offence while on bail; or. (c) interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or to any other person. (2A) The defendant need not be granted bail if- (a) the offence is an indictable offence or an offence triable either way; and (b) it appears to the court that he was on bail in criminal proceedings on the date of the offence. (3) The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare. (4) The defendant need not be granted bail if he is custody in pursuance of a sentence of court or of any authority acting under any of the Service Acts.

(5) The defendant need not be granted bail where the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.

(6) The defendant need not be granted bail if, having been released on bail in or connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act." It can be seen therefore that there are a wide variety of circumstances where bail may be legitimately refused only one of which, paragraph 2(b), is remotely comparable to the position in which the claimant now is.

However, the key difference between a person remanded in custody when accused of a crime is that he is presumed innocent. Indeed, he actually is innocent until he is found