Domestic Violence *House of Commons: 25 Nov 2013 : Column 6WS*

Secretary of State for the Home Department Theresa May: I am announcing today my intention to roll out nationally both domestic violence protection orders (DVPOs) and the domestic violence disclosure scheme (DVDS) across England and Wales from March 2014.. Tackling domestic violence and abuse is one of my key priorities. I am determined to see reductions in domestic violence and abuse and the Government's updated violence against women and girls (VAWG) action plan sets out our approach for achieving that. The Government are committed to ensuring that the police and other agencies have the tools necessary to tackle domestic violence, to bring offenders to justice, and to ensure victims have the support they need to rebuild their lives.

Domestic violence protection orders are a new power introduced by the Crime and Security Act 2010, and enable the police to put in place protection for the victim in the immediate aftermath of a domestic violence incident. Under DVPOs, the perpetrator can be prevented from returning to a residence and from having contact with the victim for up to 28 days, allowing the victim a level of breathing space to consider their options, with the help of a support agency. This provides the victim with immediate protection. If appropriate, the process can be run in tandem with criminal proceedings.

The domestic violence disclosure scheme introduces a framework with recognised and consistent processes to enable the police to disclose to the public information about previous violent offending by a new or existing partner where this may help protect them from further violent offending. The DVDS introduces two types of process for disclosing this information. The first is triggered by a request by a member of the public ("right to ask"). The second is triggered by the police where they make a proactive decision to disclose the information in order to protect a potential victim ("right to know"). Both processes can be implemented within existing legal powers.

Young Offender Institutions [Daily Expenditure on Food] *House of Commons / Column 96W*

Jeremy Wright: The National Offender Management Service (NOMS) is responsible for setting food policy for all prison establishments in England and Wales. This policy requires prisoners to be provided with three meals a day. Meals must be safe to eat, offer prisoners variety and meet the nutritional, religious and medical needs of all. Currently each prison decides what meals are made available on a day-to-day basis against a specification of requirement set out in Prison Service Instruction 44/2012 Catering Meals for Prisoners. The actual average national daily meal cost across all public sector prisons (including young offender institutions and IRCs) for fiscal year ending March 2013 was £2.20. Based on the new food contract agreed in October 2012 which is set to achieve significant food spend savings of 11% over the term of the contract, NOMS has been able to reduce food budgets in prisons to £1.96 per prisoner per day for 2013-14.

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, 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 453 (28/11/2013)

Appeal Court Referral Welcome Boost for University Innocence Projects

CCRC referred the case of Dwaine George to the court of appeal on Friday 15th December 2013. Daniel Dale died almost instantly as he ran away from a shooting in the Miles Platting area of Manchester in July 2001. George, then 18 years old, was sentenced to life in prison for the murder after a jury at Preston Crown Court found him guilty. He pleaded not guilty. A few weeks ago George, now 29, was released from prison on life licence, having studied hard and been awarded a first class social sciences degree. "I have said from day one that it wasn't me. I know there are still huge hurdles ahead, but I want to prove my innocence," George says.

The notable feature of the referral is that it's the first time a case has been referred to the court of appeal on application made by a university-based Innocence Project. The first Innocence Project was started in the UK in 2005 and there are now some 27 projects based at universities in England and Wales. George had appealed against his conviction in 2004 but the appeal was dismissed. The new referral is based on evidence relating to gunshot residue identified by students at Cardiff University Law School. The CCRC commissioned an expert analysis of the residue and the referral draws on the report. Cardiff University Law School Innocence Project has made "a very significant contribution to the case and to the referral of Mr George's convictions", the CCRC says.

George's case was one of six cases that students at Cardiff Law School investigated, overseen by its director Julie Price and consultant Dr Dennis Eady. "We worked on it for almost four years, then it was with the CCRC for a further three", writes Price. She adds that it is a time for "reflection rather than celebration." "A young person was killed. That victim's family saw someone convicted and they are now faced with the news that the conviction is under the spotlight 12 years after the event. A wrongful conviction will mean that the real perpetrator may still be walking our streets."

Times moves at a glacial pace in the under-resourced and overly-complex world of criminal appeals, nonetheless it is a shock to learn that this is the first case to be referred through an application signed off by a university. There was the Simon Hall referral – although the work was largely done by Bristol University, the application was apparently made in the name of the solicitors' firm who advised them previously. And, of course, Hall confessed. That bombshell over the summer stunned many campaigners who viewed Hall as a flagship case for the movement and the first real prospect of getting a conviction overturned.

It led to some internal reflection within the university community – not least by Price who has been candid about her frustrations with the lack of progress in her Diary of an Innocence Project column. "I don't think that university innocence projects have even scratched the surface of the miscarriage of justice problem. Although they have played an important part in teaching our future lawyers about the iniquities of the criminal justice system," Price tells me. No one would doubt the commitment and energy of students working hard to investigate cases of those alleging to be victims of miscarriages who would otherwise have nowhere to turn. As David Robinson, legal advisor at the CCRC, reflected this month at the Innocence Network UK (INUK) conference, some 27 projects are investigating around 100 cases and "presumably dozens more" for those innocence projects who operate outside of INUK. The

Cardiff project is not part of INUK. But Robinson went on to reflect on "the mismatch" between the number of cases being investigated and the number of applications to the CCRC.

Since 2005, there has only been applications relating to 17 individual cases from a total five universities. There isn't much love lost between INUK and the CCRC. The conference was the first time the Commission had been invited since 2008 and INUK's founder Michael Naughton has consistently made the argument that the watchdog is no longer fit for purpose. Many of the concerns about the cash-strapped and overwhelmed CCRC are well-made, some aren't.

No doubt with that history in mind, David Robinson offered the INUK students "some sort of context" for their figures. Since 2005, 266 CCRC referrals have gone back to the courts – almost exactly half of the total number of cases referred by the Commission. "How many meritorious cases might there be out there in the hands of innocence projects and how many more referrals might we have been able to make if we had seen more applications from them?" Robinson asked the INUK delegates. Price hopes that referral of George's case "will give a welcome boost to the morale of UK Innocence Projects at this time of crossroads and brick walls". One hopes so.

Judges and Magistrates Institutionally Racist *Oliver Wright, Independent, 24/11/13*

A report, produced by the Ministry of Justice (MoJ), shows that black and Asian defendants are almost 20 per cent more likely to be sent to jail than those who are white. At the same time, the average prison sentence given to Caucasian criminals by courts in England and Wales is seven months shorter than those given to Afro-Caribbean offenders.

The report separates conviction and sentencing rates by comparable offences and pleas, excluding the possibility of the data being inaccurately skewed. The Ministry of Justice said yesterday that ministers were aware “without a shadow of a doubt” that there were problems with the system, and said work had begun to address it as an area of “increasing concern”.

“The Criminal Justice System should work to promote equality, and should not discriminate against anyone because of their race,” the Criminal Justice Minister Damian Green said. “Targeting a person or a group based on their race or religion is unacceptable, it is divisive and harmful to individuals and has no place in a civilised society.”

However, Labour suggested the Equalities and Human Rights Commission (EHRC) should carry out its own investigation into racial bias in the judiciary, claiming work done under the last Government had “ground to a halt”. One leading black barrister said the figures showed that the courts, like the police, were “institutionally racist”. A spokesman for the EHRC said it was “aware of the issues behind the report” and would “examine the concerns raised”.

The MoJ document, Statistics on Race and the Criminal Justice System 2012, was published without fanfare on the department’s website. It shows that over the past four years black criminals have been less likely to receive police cautions and more likely to have been proceeded against in court, than any other ethnic groups.

The most common outcome for a white criminal was a community sentence; for Black, Asian and Chinese offenders it was custody. The statistics are broken down by types of crime, ruling out the possibility that black defendants might be being proportionally found guilty of more serious offences. Disturbingly, in every year studied, a higher proportion of white defendants had previous convictions – which would normally result in a greater number of prosecutions and harsher sentences. But this does not appear to be the case. The proportion of white criminals sentenced to immediate custody by the courts was 26 per cent while the proportion of black criminals sent to prison was 31 per cent and Asians 32 per cent. The average custodial

Since our last visit there had been three self-inflicted deaths, but the support we observed for those at risk of self-harm was generally good with some excellent multidisciplinary work. There was evidence that the prison had acted on lessons learned and recommendations following investigations into these deaths. A more risk-based approach to security was leading to positive changes that were supporting the work of the prison, but some practices remained disproportionate, for example the inappropriate use of strip- and squat-searching. Unacceptably, this sometimes took place without the knowledge of managers.

The segregation regime and environment were poor, though use of the facility was not excessive. Relationships in the unit were friendly but unchallenging. Prisoners were positive about the support they received generally for substance misuse, but the key work of the prison's drug recovery unit was undermined by the mix of prisoners on the unit and some indifferent staff attitudes to the work.

The environment and living conditions at Risley were mixed and prisoners faced a number of frustrations concerning access to basic amenities and services. Birchwood wing was very poor; the wing should be either refurbished or demolished. Relationships between staff and prisoners were superficially respectful, but prisoners complained of victimisation and of the unhelpful attitude of a small but influential number of staff. Staff were too often merely passive in their support for the work of the prison. The promotion of equality and diversity had improved but remained mixed. There was some good support for disabled and older prisoners, but there were gaps, particularly for foreign nationals. Prisoners lacked confidence in the complaints process but overall, health services were reasonable.

For a training prison we found too many prisoners locked in cells during the working day - on average over a third of the population. The prison had increased the range and number of activity places since the last inspection and had a sound strategy focusing on prisoners' resettlement needs, but too many prisoners did not attend their allocated activity places and punctuality was poor. The management and quality of education required improvement and quality improvement processes were not effectively applied. Too much teaching in education was mundane or inadequate. In contrast, the quality of teaching and coaching in vocational training and in industries was good and prisoners developed skills and a strong work ethic. Those who attended activities regularly did well and achieved qualifications.

Strategic management of resettlement was developing and gathering some momentum, but a whole prison approach to inform and support prisoners was not yet evident. The prison needed to focus more on addressing the needs of prisoners spending short periods of time at the prison prior to release. Offender management arrangements were generally good, but there was a considerable backlog in assessments and other key processes. Public protection arrangements were robust. The prison offered some good support in the resettlement pathways, but work on children and families needed to be better, as did access to some key work with sex offenders.

This is a mixed report. It was however, reassuring that the Governor and his management team had a solid understanding of the challenges the prison faced. They had a programme for improvement and progress was evident. The prison was soon to go through a radical reorganisation and benchmarking exercise that managers saw as an opportunity to address entrenched practices. The priority was to continue developing the quality of training and the capabilities of resettlement practice. This needed to be underpinned by a more supportive staff culture and operational arrangements that fully facilitated the aims of the prison, while continuing to ensure at least, current levels of safety.

West Midlands Police Officer Summonsed for Causing Death by Careless Driving

A West Midlands Police officer is being summonsed for causing death by careless driving, following an investigation by the Independent Police Complaints Commission which was completed in July. The IPCC forwarded its report to the Crown Prosecution Service which has decided the officer should face criminal proceedings. Pc Vaughn Lowe, 41, who is based at the force's traffic unit in Aston, Birmingham will appear at Leamington Spa Magistrates' Court on 20 December. Pc Lowe was driving a police car which collided with a Chinese student, Zhang Xuanwei, in Birmingham in April 2012. Zhang was crossing New Town Row carriageway on foot at a traffic light controlled pedestrian crossing on 4 April 2012 when he was struck by the unmarked police car travelling in the outside lane.

Report on an Unannounced Inspection of HMP Risley

Inspection by HMCIP 8–19 July 2013, report compiled November 2013, published 26/11/13

HMP Risley holds over 1,000 adult male prisoners. The prison is burdened with a historically poor reputation, but at its last inspection in February 2011, inspectors found an establishment that had noticeably improved. This recent inspection found a prison that had made some evident progress, but there were clear shortcomings, particularly the attitude of some staff toward prisoners and a lacklustre approach to the provision of education and activity.

Inspectors were concerned to find that: - Since our last visit there had been three self-inflicted deaths - prisoners faced a number of frustrations concerning access to basic amenities and services - some security practices remained disproportionate, such as the inappropriate use of strip- and squat-searching; Unacceptably, this sometimes took place without the knowledge of managers - processes designed to promote violence reduction were weak and one-dimensional; - the segregation regime and environment were poor, though the use of the facility was not excessive; - Birchwood wing was very poor and should either be refurbished or demolished; - relationships between staff and prisoners were superficially respectful, but prisoners complained of victimisation and of the unhelpful attitude of a small but influential number of staff; - too many prisoners were locked in cells during the working day - on average over a third of the population; - the management and quality of education required improvement and too much teaching was mundane or inadequate; and - visits provision and services to help prisoners maintain or rebuild relationships with their families needed to develop. - Inspectors made 96 recommendations

Introduction from the report: Risley is a large category C prison in Cheshire, holding over 1,000 adult male prisoners. The prison is burdened with a historically poor reputation, but at our last inspection, over two years ago, we found an establishment that had prepared well and noticeably improved. At this inspection we found a prison that was still producing broadly reasonable outcomes, with some evident progress. But there was no disguising clear shortcomings, particularly the attitude of some staff toward prisoners and a lacklustre approach to the provision of education and activity.

Many prisoners at Risley were serving long sentences, many for serious offences, but in our survey most said they felt safe, including those deemed vulnerable due to the nature of their offence. Arrangements to receive prisoners into the establishment were adequate but could be improved. Levels of violence and use of force were not high, despite weak and one dimensional processes designed to promote violence reduction. Investigations into incidents were often perfunctory and prison staff had not consulted prisoners about their perceptions of safety.

sentence for white offenders was 15.9 months; for black prisoners it was 23.4 months. Different types of crime also show sentencing differences. A white person pleading guilty to burglary was sentenced to, on average, 25 months in prison compared with a black person who typically received a 28-month sentence. Of those pleading not guilty but convicted by the courts, the sentences were 40 months and 47 months respectively. Similarly, 76 per cent of white people convicted of production or supply of a class A drug were sentenced to immediate custody compared with 84.8 per cent of black people.

One former prison governor said that he believed there was a degree of "establishment denial" about the problem. "When I worked in Brixton prison, of the 900 prisoners we had, between 60 and 65 per cent were non-white, which was completely disproportionate to the make-up of the community," said Paul McDowell, now chief executive of the crime reduction charity Nacro. "This was a direct consequence of what was happening in the courts. But there is a degree of establishment denial. There seems to be a view that the judiciary are independent and cannot be interfered with. But that lack of challenge is at the root of the problem."

Peter Herbert, chairman of the Society of Black Lawyers and a crown court judge, said the figures represented "institutional racism". "I'm not sure what else you can call it," he said. "The effect is right across the criminal justice system. From stop and search, to arrest, to charge and to sentencing – every aspect of the process is stacked against defendants from ethnic minority backgrounds. It is not a pretty picture."

Mr Herbert said the figures needed to be broken down to individual court level, and judges confronted with their sentencing decisions. "It needs urgent attention," he said. "I don't believe that judges are sitting there consciously discriminating against black defendants, but if you look at the cumulative effect of sentencing decisions there is no rational explanation for the discrepancies. "We need to drill down into the figures and ensure that they are examined on a court-by-court basis. Judges then need to ask themselves hard questions."

Richard Monkhouse, chairman of the Magistrates' Association, said a unit in the MoJ that had examined the issue under the Labour government had been disbanded. "I think that's a real pity because only by understanding what is going on can we begin to address the problem. Judges have to operate within tight sentencing guidelines. So, why is there still disproportionality? "It's crucial that people know our system of open and transparent justice will deal with them fairly and equally, regardless of gender, class, age, race or religion."

Shadow Justice Secretary Sadiq Khan said: "If the colour of your skin means you are treated unfairly by our justice system then urgent action is required to address that."

Pathologist Tells Inquest Copper 'Got It Wrong' In Mark Duggan Evidence

The inquest into the police shooting of Mark Duggan in 2011 heard important forensic evidence from a number of expert witnesses last week. On Thursday of last week (14/11/13) pathologist Professor Derrick Pounder, who carried out the postmortem on Mark, contradicted key evidence provided earlier in the inquest by the officer who shot him. The firearms officer, known only as V53, previously stated in the inquest that he had shot Mark first in the chest, then a second round into his right bicep. However, in his evidence Professor Pounder said that Mark was shot the other way around—first in his right bicep, then in his chest. He said, "My conclusion is that the first shot was to the arm, the non-fatal shot, and the second was to the chest, the fatal shot." When asked why his evidence contradicted that of the firearms officer, Pounder stated, "I take the view he simply got it wrong."

Police allege that Mark was holding a weapon when he was shot. A gun was found 7.34 metres

away from the scene of his shooting. A second expert, Professor Jonathan Clasper, told the inquest on Thursday of last week that is was "very unlikely" that Mark had hurled the gun after being shot in the bicep first, as V53 claims. He said, "I think it would impose, obviously, a great deal of pain on someone with a biceps wound. If they were to use the biceps muscle in the hand movement to throw it." V53 claims that he shot Mark a second time because the first round had caused the gun he is alleged to have been holding to move up and point in his direction. Pounder told the inquest that he did not believe Mark was able to raise his arm.

Metropolitan Police fingerprints expert Jacqueline Landais told the inquest on Wednesday of last week that no fingerprints or DNA belonging to Mark were found on the gun. Landais told jurors that there were no finger prints or DNA "attributable to Mark Duggan" on the gun or the sock. When asked by lawyer Adam Straw, representing Mark's family, if there was any evidence to suggest that he had opened the shoebox, she replied, "No, there is nothing showing Mr Duggan opened the box carrying the gun." The inquest continues.

John Bowden's Recent Parole Hearing

On November 6th the Parole Board for England and Wales carried out it's statutory obligation to review my continued detention after more than three decades in prison and many years beyond what the judiciary originally recommended I should serve in jail.

Following an earlier parole hearing in May 2011 the board had recommended my transfer to an open prison in preparation for my release 12 months hence. Almost three years later I remain in a maximum-security prison because of what the prison system and a criminal justice system social worker claim is my politicised anti-authoritarian attitude and "rigid belief system" that is antipathetic to my being properly supervised outside a custodial setting.

No one who gave evidence at the parole hearing, even representatives of the prison system, claimed that I represented any sort of threat or risk to the community, the usual reason or criterion for the continued detention of a life sentence prisoner beyond what the judiciary had originally recommended as the appropriate length of time they should serve in jail.

In my case the "interest of retribution" had long been served or satisfied and I continue to be detained because of what is viewed and defined as a "rigid" political belief system formed after 30 years of resisting and confronting abuses of power by the prison system. At the recent parole hearing reference was also made to what was described as my "internet activity", my writing and distributing articles critical of the prison system through a political group on the outside.

A prison officer, Marten Whiteman, who gave evidence at the hearing claimed that my attempt to publicly expose abuses of official power by the prison system was an explicit attempt to "intimidate" and frighten prison staff such as himself. Whiteman, who routinely opposes the release of life sentence prisoners at parole hearings that he manages and administers within Shotts Prison, claimed that my use of and access to the internet through radical groups on the outside represented little more than a weapon of subversion to undermine the power and authority of people like himself.

His evidence was treated sympathetically by a parole board now focused on legitimising and rubber-stamping my continued imprisonment. When asked by my lawyer why a recommendation made by the parole board in 2011 that I be transferred to an open jail in preparation for release was completely ignored by the administration at Shotts Prison, Whiteman replied that following that recommendation the "Programmes Dept" at the prison, of which he is the manager, decided that I "qualified" for a lengthy "anti-violence" behaviour-modification programme; my refusal to co-operate

arately identify from this centrally held information whether, in all cases, a defendant refused bail or given a custodial sentence was a carer or a person with caring responsibilities for a child or a vulnerable adult. As such, this information is available only at disproportionate costs. The Government is however looking at practical ways to increase awareness among criminal justice professionals of the importance of taking account of dependants of those about to be detained in custody. Our reforms to transform rehabilitation will also see the introduction of an unprecedented through-the-gate service. Under these plans we are developing a Basic Custody Screening Tool that will be completed by prison staff for all sentenced offenders and remand prisoners. This tool will record whether an offender has any children.

Natasha Foster Jailed For Making False Rape Claim *BBC News, 25/11/13*

A woman who made a false rape claim against her ex-boyfriend after he ended the relationship by text message has been sentenced to three months in jail. Natasha Foster, from Ballymoney Road in Ballymena, County Antrim, told police in 2011 that her on/off boyfriend had sexually attacked her in her home. Two days later she admitted to officers that she had lied about the rape claim. She was charged with perverting the course of justice - a charge she pleaded guilty to in September. On Monday 25/11/13, the judge at Antrim Crown Court said the 23-year-old's actions were apparently shaped by receiving a text from an ex-boyfriend she had sexual relations with on 22 November 2011. The text from the man said he did not want to rekindle the relationship.

Foster's actions, the judge, said were "a mixture of impulsivity, anger, hurt and a sense of rejection". The judge said: "Every false allegation of rape increases the plight of those women who have been genuine victims of this dreadful crime." He also said that to act in this "wicked way" can create doubts in the mind of the public and can be seen as an attack on the criminal justice system. The Antrim Crown Court judge said it was a difficult case when it came to deciding what was a fair, just and proportionate sentence. He said that while a sentence of six months, if not longer, would be justified, given the mitigating factors - such as her genuine remorse and the fact she was now a young mother - he said he would reduce the sentence to three months.

Expert Evidence in Criminal Proceedings *House of Commons / 21 Nov 2013 : Column 61WS*

Minister for Policing, Criminal Justice and Victims (Damian Green): Today, I have placed in the Libraries of both Houses a copy of the Government response to the Law Commission's report "Expert Evidence in Criminal Proceedings". The Law Commission's investigation followed concerns expressed by the House of Commons Science and Technology Committee in 2005. The report was extremely thorough, and concluded that legislation was needed to bring existing common law provisions into statute, to provide judges with additional powers to exclude expert evidence, and to create a new "reliability test". However, administration of this test would require additional pre-trial hearings, which have cost implications to which the Government cannot, at this time, commit.

Rather than seek to bring in new legislation, I intend to ask the Criminal Procedure Rule Committee to make changes to the rules relating to the timing and content of experts' reports. Although this will not provide judges with additional powers—as proposed by the Law Commission—it will put them in a position to use their existing powers more effectively, by ensuring that they have more information at an earlier stage about any expert evidence which it is proposed to adduce.

Transforming Rehabilitation programme;

- The nature of support that public sector prisons require from NOMS and its capacity to deliver it; and

- The extent to which the Government's aspiration for "working prisons" has been achieved.

The inquiry will not consider the circumstances in which offenders should be sentenced to custody. The relationship between sentencing, prison policy and crime reduction has been considered by the Committee in other contexts, including in its current inquiry into <http://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/news/new-inquiry-crown-dependencies/>Crime reduction: a coordinated approach?

The Committee invites written submissions on these issues by noon Friday 28 March 2014.

The personal information you supply will be processed in accordance with the provisions of the Data Protection Act 1998 for the purposes of attributing the evidence you submit and contacting you as necessary in connection with its processing.

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If you have any queries or concerns about the collection and use of this information or do not wish your details to be used for the purpose of collecting feedback, please advise the Committee at <mailto:scitechcom@parliament.uk>scitechcom@parliament.uk providing your full name, address, and if relevant your organisation.

Each submission should:

a) be no more than 3,000 words in length

b) be in Word format with as little use of colour or logos as possible

c) have numbered paragraphs

d) include a declaration of interests.

If you need to send a paper copy please send it to:

The Clerk: Justice Committe, House of Commons, 7 Millbank, London SW1P 3JA

Please note that: Material already published elsewhere should not form the basis of a submission, but may be referred to within a proposed memorandum, in which case a hard copy of the published work should be included.

Memoranda submitted must be kept confidential until published by the Committee, unless publication by the person or organisation submitting it is specifically authorised.

Once submitted, evidence is the property of the Committee. The Committee normally, though not always, chooses to make public the written evidence it receives, by publishing it on the internet (where it will be searchable), by printing it or by making it available through the Parliamentary Archives. If there is any information you believe to be sensitive you should highlight it and explain what harm you believe would result from its disclosure. The Committee will take this into account in deciding whether to publish or further disclose the evidence.

Offenders: Dependants *House of Lords / 20 Nov 2013 : Column WA217*

Lord Touhig to ask Her Majesty's Government how many people (1) refused bail, and (2) given a custodial sentence, in 2012–13 had caring responsibilities for (a) a child, or (b) a vulnerable adult.

The Minister of State, Ministry of Justice (Lord McNally) (LD): Information held centrally by the Ministry of Justice on the Court Proceedings Database does not include the circumstances behind each case beyond the description provided in the statute. It is not possible to sep-

with the programme, he claimed, was the reason why I remained in Maximum-Security conditions.

When asked why I "qualified" for such a programme considering that I had exhibited or shown no violent behaviour in over 20 years, during which I had worked outside of prison in community-based projects for the vulnerable and disadvantaged, Whiteman claimed to have no idea. When pressed to explain the decision of the "Programmes Dept" and what evidence it had considered to justify my qualification for such a programme, Whiteman said he couldn't remember.

Two days after the parole hearing a prisoner who worked in the re-cycling and disposal facility at the prison retrieved a bundle of documents sent for destruction from the "Programmes Dept". They consisted of downloaded articles from the internet written by me and a profile describing me as a "militant prisoner". This, it would seem, was the evidence considered by the "Programmes Dept" who then arbitrarily used the system of programmes and behaviour-modification courses as a justification to prolong my imprisonment.

Another critical witness at the parole hearing was a community-based criminal justice system worker authorised to supervise me in the event of my release. Brendan Barnett co-ordinated the opposition to my release in his role as committed "public protection officer", whilst admitting that my actual risk to the public was minimal or non-existent. His reason for opposing my release was his stated belief that I would be difficult to supervise in the community because of my "entrenched and rigid anti-authoritarian attitude". When asked by my lawyer about significant lies and distortions of truth in his report to the parole board, he simply smiled.

The board itself, chaired by a senior judge, remained silent when confronted by the lies in Barnett's report. Like Whiteman, Barnett claimed my writing and distributing articles critical of the prison and criminal justice system was little more than an attempt to "intimidate" people such as himself. As evidence of my ideologically-driven contempt for official authority he produced an article recently written by me and distributed via the internet entitled "Neo-Liberalism and Prisons" and then quoted the following paragraph:

"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-centred" 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 a extension of the police and prison system, and abandoning any vision of positively reforming and socially reintegrating the "offender" now instead prioritise punishment, social isolation and stringent supervision.

This replacement of the rehabilitation model with a more materialist 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 as one 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 focus 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 benefits, 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". This, Barnett claimed, was evidence of my contempt for any form of post-release supervision and a compelling reason why I should be detained in prison indefinitely. The Parole Board appeared to agree with him.

There were other voices that were not heard at the parole hearing, like Kate Hendry, a lecturer and teacher at the prisons education dept. In May of 2012 she submitted a report to the Parole Board in which she wrote: "In the 12 years that I have worked in prisons, I have never met someone so transformed while in prison, from criminal to citizen as John Bowden. His experience of imprisonment has enabled him to develop a more social and humane perspective; a rare achievement indeed. His energetic but gentle approach in assisting in the education of other prisoners, given his long imprisonment, is a testimony to his successful struggle to retain his humanity in the service of others. He is a generous and thoughtful person who has become an invaluable presence to staff and students alike".

Following her submitting that report to the Parole Board she was dismissed from her job in the prison on the grounds that she had become "inappropriately close" to me and was therefore by definition a "potential security risk" in the prison. Her voice, in any case, would have been marginalised at the parole hearing, the agenda of which was obviously to construct a case against my release by any means necessary.

Towards the end of the "evidence" of Whiteman and Barnett, no matter how dishonest and motivated by a desire to silence and crush me, held sway for an inherently conservative and risk-obsessed Parole Board whose collective attitude was encapsulated in a question asked by one of them during the hearing: "Why haven't you kept your head down and did all that was asked of you, like most other life sentence prisoners?" Absolute, unquestioning conformity within a prison system characterised by one of the worst records of human rights abuses in Europe is it seems the sole prerequisite for release of life sentence prisoners in Britain.

Inevitably the formal decision of the Parole Board when it is delivered soon will authorise my continued and indefinite detention on the grounds that by attitude and inclination I remain a "difficult" and "confrontational" prisoner who although not a risk or threat to society doesn't quite know his place as someone with absolutely no human rights or otherwise that the state is obliged to recognize or acknowledge. My continued imprisonment with increasingly less hope of release and freedom will do nothing to diminish my determination to continue speaking out with political integrity and courage.

John Bowden, HMP Shotts, Cantrell Road, Shotts, ML7 4LE

Prisons: Prisoners with Children [Through-the-Gate Service] *House of Lords / Column 954*

Baroness Benjamin to ask Her Majesty's Government what plans they have to record whether or not an individual remanded in custody, or sentenced to prison, has any children.

Minister of State, Lord McNally: My Lords, our reforms to transform rehabilitation to bring down reoffending rates will see the introduction of an unprecedented through-the-gate service. Under these plans, we are developing a basic custody screening tool that will be completed by prison staff for all sentenced offenders and remand prisoners. As part of that process, we will record whether an offender has any children.

Baroness Benjamin: My Lords, Barnardo's and other leading children's charities have found that children of prisoners are a very vulnerable group. They are twice as likely to experience depression, mental health problems and drug and alcohol abuse, and to live in poor accommodation. Many go on to offend and yet these children are unlikely to be offered any tar-

other functions, to pay for new front line policing. These are likely to be controversial as they will again call into question the purpose of having 43 separate forces – with many functions unnecessarily replicated. But successive governments have failed to rationalise policing structures. "This is about having very strong local policing while merging functions which can best be done at a national level," said one source close to the commission. We are well aware of the need to change the police within existing budgets, but we do believe there are savings that can be made which will allow us to restore neighbourhood policing, which has been disappearing at an alarming rate." Chaired by Lord Stevens, the members of the commission included the independent reviewer of terrorism legislation, Lord Carlile, the former heads of Europol and Interpol, and the former head of MI6, Sir Richard Dearlove.

Prisoners: Medical Treatment *House of Lords / 20 Nov 2013 : Column WA219*

Lord Beecham to ask Her Majesty's Government what steps they will take to review the practice of restraining ill or disabled prisoners while they receive medical or hospital treatment.

Minister of Justice (Lord McNally) (LD): The decision to restrain a prisoner during a hospital visit or while undergoing medical treatment outside the establishment is taken on a case by case basis. While the application of restraints to a prisoner must always be proportionate to risk and be balanced by consideration of care and decency, there is an overriding duty on prisons to ensure that those who may pose a danger to the public, patients or staff do not escape. Any assessment of risk must take into account not only the physical and mental condition of the prisoner and their ability to escape or cause harm while they are outside the secure environment of the prison, but also the likelihood of intervention by outside parties (including the potential for the use of firearms or other weapons) in order to facilitate escape.

National Offender Management Service will always strive to provide ill prisoners with an environment that is conducive to their well-being and takes proper regard of the intensity of the treatment being received. The risk assessment of prisoners undergoing treatment is regularly reviewed in the light of changes to their clinical condition, the treatment being provided and any input from healthcare professionals. As part of NOMS regular review of its policies, the policy on the external escort of prisoners (including to hospital) is due to be reviewed during 2014.

New Inquiry: Prisons: Planning And Policies

The Justice Committee has launched an inquiry entitled Prisons: planning and policies. The Committee has examined aspects of prison policy during its inquiries on youth justice, women offenders and older prisoners, but this will be its first major inquiry on prison planning and policies in this Parliament, and an opportunity to consider in detail the current Government's programme of reforms and efficiency savings.

The inquiry will consider in particular:

- The Government's approach to achieving efficiencies across the prison estate, including the public sector benchmarking programme and the use of competition;
- The impact of lower operational costs on prison regimes, access to education, training and other purposeful activity, the physical environment, safety and security;
- The costs and benefits of the new-for-old prison capacity programme and the Government's intent to reduce overcrowding;
- The ongoing re-configuration of the prison estate, including the extent to which prisons are suitably located and accessible to visitors, and the implications of the

itor – it was not a choice for the police, as argued by the Police Commissioner. Moreover, if a solicitor attended, they were allowed to be present during questioning (he reached this conclusion based on the wording of Schedule 8, which provided for the right to consult "at any time"). However, Mr Justice Bean also confirmed that this right to choose the method of communication could not be used by a detained person so as to frustrate the purpose of the detention (i.e. to avoid answering questions), bearing in mind that the maximum length of time a person could be detained was nine hours.

The result was that the questioning of the Claimant after he had been denied the opportunity to consult with his solicitor in person (which lasted for 45 minutes) was unlawful, and he was awarded a declaration and nominal damages to reflect that. However, his detention did not thereby become unlawful under Article 5. If the police had waited for the solicitor, he would have been detained for even longer, and so he had suffered no loss in that respect. Nor had the purpose of his detention disappeared; he remained lawfully detained for the purpose of securing the fulfilment of his obligations to answer questions put to him.

It will be seen from the above that the right to consult with a solicitor is perhaps more nuanced and less straightforward than pop culture would have us believe. Reality television shows, crime dramas, even block buster films (I'm thinking Neo in the first Matrix film - pictured) have all played a part in ensuring that the right to legal advice in that context is ingrained in the consciousness of the masses. Nevertheless, the right was firmly vindicated by the courts in this case. *Matthew Flinn, UK Human Rights Blog, November 24, 2013*

Police 'Narrow and Discredited' Says Ex-Met Boss *Oliver Wright, Independent, 24/11/13*

Britain's police forces have retreated into a "discredited, narrow and reactive" response to crime that is failing local communities, the former head of Scotland Yard will caution. Lord Stevens has give a warning that police forces have presided over a collapse in "bobbies on the beat" as they reduce staff numbers in the wake of government cuts, and will call for communities to be given a guaranteed minimum level of policing. Lord Stevens, who was head of the Met from 2000 to 2005, has been leading an independent commission into the future of policing set up by the Shadow Home Secretary Yvette Cooper two years ago. The commission, has recommended a radical overhaul of the traditional "responsive" policing model. The police are not simply crime fighters," the report says. "Their civic purpose is focused on improving safety and well-being within communities and promoting measures to prevent crime, harm and disorder. The Commission recommends that the social purpose of the police should be enshrined in law. This will help to bring much-needed consensus to the question of what we expect the police to do.

Among its recommendations are:w A request to the police for assistance or reporting a crime will be met by a mandatory commitment to a specific response time. All reported crime will be investigated, or an explanation given of why it is not possible to do so. Victims are to be regularly updated, by right, on the progress of an investigation. The protection of neighbourhood policing demands that the legislated national purpose is backed up with a set of national minimum standards of police service which everyone should be entitled to receive, and which local police forces and those who call them to account must deliver.".

Labour is expected to endorse the findings and will confirm that it will not abolish the Police Commissioners set up by the coalition. The party has also released figures showing the loss of more than 10,000 police officers from the frontline since 2010. The report is understood to suggest that significant savings could be made by forces sharing procurement, IT, and

geted support. Barnardo's found that the courts keep no record of them and that there are no requirements to identify them to children's services. Will the Government create a statutory duty for courts to identify defendants who have dependent children and agree that, by collecting those data, they will be better placed to detect vulnerable children with a parent in prison and ensure that they get the support they need from children's services?

Lord McNally: My Lords, I am not sure that I can give the guarantee of a statutory function for the courts but our reforms for probation will mean that the important function of advising the court prior to sentencing —which will outline the offender's personal circumstances, including dependants—will remain with public sector probation services. Our reforms to transform rehabilitation will also introduce through-the-gate services for those given custodial sentences.

I appreciate the point that my noble friend makes; it is a worrying factor that many of the young people who come into the criminal justice system are themselves children of offenders. We should certainly be looking at ways to break that circle and trying to make sure that these children are helped away from a life of crime.

Lord Touhig (Lab): My Lords, in replying to a debate on this matter on 12 November, the Minister offered a meeting and I certainly look forward to that. I have since read his remarks from that day. When an elderly or disabled person's carer is sent to prison, the cared-for person often suffers the most as, in many cases, the courts do not even know that they exist. Although I accept that there is the safety net of pre-sentence reports in certain circumstances, when bail is denied there is no pre-sentence report and the court may not know that there is a cared-for person around at all. The consequence is that the cared-for person becomes an unintended victim. How are we going to stop that?

Lord McNally: My Lords, I appreciate very much the point that the noble Lord is making, and I look forward to meeting him and the Prison Advice and Care Trust. In some ways, it is amazing that we are in the 13th or 14th year of the 21st century and that we find these gaps in our care provisions. I often think that it is not that the state does not care but that we are not yet good enough at connecting bits of the state so that people do not fall through the net. As part of the exercise of bringing forward this basic custody screening tool, I hope that by bringing in the expertise of organisations such as PACT we will be able to make sure that people do not slip through the net in the way that the noble Lord suggests.

The Lord Bishop of Birmingham: My Lords, perhaps I may press the Minister a little further. When a court is aware of a child whose parent is imprisoned and that child is in a vulnerable state, will he ensure that the court refers the child to the proper care of the local authority or a charity in the region where that child is living?

Lord McNally: I go back to what I would expect to be common sense in these areas. Courts already have a duty, in every case, to take account of any mitigating factors, including that the offender has primary care responsibilities for children or other dependants. However, it is important that the presence of such dependants is brought to the attention of the court. Again, I can only emphasise that the direction of travel we are going in is to try to make sure that the prison and court authorities are aware of their responsibilities and that they link up with the supporting organisations needed in these cases.

Baroness Finlay of Llandaff (CB): Are the Government formally evaluating novel schemes, such as that at Doncaster prison, which aim to maintain the bonding between a parent and a child—particularly a new-born baby? The parent's reoffending rate is lower, bonding takes place and the parental duty is learnt while the person is in prison, rather than it being

destroyed during their incarceration.

Lord McNally: Yes, my Lords, we are following the Doncaster experiment. Last month, I announced a new approach to managing female offenders. We are developing the custodial estate so that women can stay closer to home and maintain links with their families, which is important not only for new-born babies but throughout childhood.

Baroness Corston (Lab): My Lords, 17,000 children a year are affected by their mothers' imprisonment. Given that the Government plan to close two women's prisons, which means that there will be only 12 women's prisons in England and Wales and which will lead to much longer journeys for those visiting their mothers and, often, to catastrophic breaks in the relationship between mother and child, will the Minister confirm that the mother and baby unit at Holloway prison is not subject to closure?

Lord McNally: I am not aware that there is any plan to do that but, if there is, I will write to the noble Baroness. However, such decisions are taken for operational reasons in the region. I have visited the Holloway unit and I know that it is valued because while it is not the most modern prison, it is close to people's homes. The noble Baroness says that we are closing two women's prisons, but the major complaint about those prisons which we plan to close is that they are a long way from anywhere, never mind not being close to home. We are developing the custodial estate so that women will be in the prison closest to their home. We have found from all the research that that is the factor which women in prison want. With that, coupled with the rehabilitation reforms and through-the-gate care for women, we hope

CCRC Refer Rape Conviction of Benjamin O'Meally to Court of Appeal

Mr O'Meally was tried for rape in September 2009 at Wolverhampton Combined Court. He pleaded not guilty but was convicted and sentenced to life imprisonment with a minimum term of nine years and three months. Mr O'Meally sought to appeal against his conviction in 2009 but his appeal was dismissed. He applied to the Commission for a review of his conviction in October 2010.

Having reviewed the case in detail the Criminal Cases Review Commission (CCRC) has decided to refer the conviction to the Court of Appeal because it believes that new evidence raises a real possibility that the Court will quash the conviction. The referral is based on material uncovered by the Commission which potentially affects the credibility of the complainant and undermines the prosecution case, and which was not disclosed to the defence.

Mr O'Meally represented by: Waldrons Solicitors, 38-39 Lichfield Street,, Walsall, WS1 1UP

CCRC Refers Disqualification Order of Roy Seymour to Court of Appeal

Mr Seymour was tried for rape at Croydon Crown Court in 2003. He was convicted and sentenced to seven years' imprisonment with a three year extension period. The Judge imposed a Disqualification Order preventing him from working with children for life, under the Criminal Justice and Courts Services Act 2000. Mr Seymour was also required to sign the sex offender's register for life. He was released from prison in October 2007.

In 2012 Mr Seymour was charged under section 7 of the Safeguarding Vulnerable Groups Act 2006 for breach of his Disqualification Order as he had been refereeing youth team football matches. The prosecution was formally abandoned by the Crown Prosecution Service at Woolwich Crown Court on 12 July 2012 when it was realised that Mr Seymour's Disqualification Order was unlawful. A Disqualification Order could only properly be imposed where a person had been convicted of an offence against a child; the victim in Mr

Seymour's case was over 18 years of age. The Commission has referred Mr Seymour's disqualification order because it considers that the fact the disqualification order is unlawful raises a real possibility that the Court of Appeal will now quash the order.

Mr Seymour represented by: C. R. Burton & Co, 192 Penge High Street, London SE20 7QB.

Personal Consultation With Solicitor Must Be Offered Before Terror Questioning

Elosta v Commissioner of Police for the Metropolis [2013] EWHC 3397

The High Court has held that a person detained for questioning under the Terrorism Act 2000 is entitled to consult with a solicitor in person prior to answering questions.

On 10 November 2012, Mr Elosta arrived at Heathrow airport having been to Saudi Arabia on the Hajj. Upon presenting himself at the Immigration desk, he was stopped by police officers who began to question him. He provided his personal details, but asked to speak to a solicitor before answering further questions. He was permitted to speak to his solicitor by telephone, and she indicated that she would arrange for a solicitor to attend the airport. However, the police indicated that they would not wait for that solicitor to arrive before proceeding with questioning.

The questions for the court were (a) whether or not Mr Elosta was entitled to speak to his solicitor at all; (b) if so, whether or not he was entitled to speak to his solicitor in person; and (c) if so, whether or not the continued detention and questioning was lawful.

To provide a bit of legal context, Schedule 7 of the Terrorism Act provides a power for a police officer to question a person at a port or border for the purpose of determining whether or not they may be a terrorist (defined in section 40(1)(b) of the Act as a person who "is or has been concerned in the commission, preparation or instigation of acts of terrorism"). The stakes can be significant. Under paragraph 6 of Schedule 7, a person can be detained for the purpose of questioning, and under paragraph 5, a person has to answer the questions put and provide the information requested; failure to do so is an offence which may lead to imprisonment.

Mr Justice Bean answered the questions the court faced using a straightforward approach of statutory interpretation, in light of the surrounding statutory materials. In particular, he looked to the Code of Practice issued by the Secretary of State. That was relevant because paragraph 14 of Schedule 5 of the Act provided that officers exercising their powers under the Act "shall perform" them in accordance with the Code.

In respect of the right to consult simpliciter, it was necessary to look to Schedule 8 paragraph 7 of the Act, which provides that "a person detained under Schedule 7 or section 41 at a police station in England, Wales or Northern Ireland shall be entitled, if he so requests, to consult a solicitor as soon as is reasonably practicable, privately and at any time." Crucially, Mr Elosta was not detained at a police station, but at the airport. Did that make a difference? The court said it did not. There was no reason why a person detained at somewhere other than a police station should be denied the right to consult. Furthermore, the Code of Practice required that when someone was detained for questioning under Schedule 7, they had to be given a special TACT 2 form, which said: You may consult either in person, in writing or on the telephone, privately with a solicitor. If you do not wish to do so now, you may do so later and at any time while you are detained. Indeed, it was also the view of the Secretary of State (intervening in the case) that consultation was permitted by law, whether detained in a police station or not.

Moving on to whether or not the right to consult entailed a right to consult in person, Mr Justice Bean said that his reading of the words of the TACT 2 form (set out above) was that the detained person had a choice as to the form in which he communicated with his solic-