to us that conduct of this sort and on this scale clearly called for an immediate custodial sentence of some substance. The judge paid too much heed to the mitigation and did not have sufficient regard either to the gravity of the offending or the harm done to a vulnerable young person by someone in a position of trust - or to the guidelines themselves." The length of the custodial sentence imposed was tempered by Berriman's family situation, added the judge.

ECtHR Dimitrov and Ribov v. Bulgaria - Violatios of Article 3 & 13

The applicants, Stoyan Dimitrov, Ivan Ribov and Kamen Radev, are Bulgarian nationals who were born in 1974, 1979 and 1969 respectively. They are all serving whole life sentences; Mr Dimitrov and Mr Ribov in Burgas Prison (Bulgaria) and Mr Radev in Varna Prison (Bulgaria). The cases essentially concerned the applicants' complaints about the regime and conditions of their whole life sentences. Mr Dimitrov and Mr Ribov have been serving their whole life sentences in Burgas Prison since their convictions in December 2004. Mr Radev has been serving his whole life sentence in both Pleven and Varna Prisons since his conviction in January 1990. All three men are detained in locked cells under heightened security supervision. Mr Dimitrov and Mr Ribov argue, in particular, that they are allowed out of their cells for between one and two hours a day and that due to the size of their cell they are forced to spend most of their day either lying or sitting on their beds. They complain about the poor conditions of the canteen and kitchen, the poor quality of the food and inadequate medical services. Mr Radev alleges that throughout his entire period of detention he has been held in permanently locked cells. All three men complain that there are no toilets in their cells and that they have limited access to a toilet having to use a bucket in their cell. Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, the three men complained about the stringent prison regime and conditions in which they were serving their life sentences. Furthermore, relying on Article 13 (right to an effective remedy), Mr Dimitrov and Mr Ribov complained that there was no effective remedy for them to complain about these conditions. Violation of Article 3 (inhuman and degrading treatment) – in both cases - Violation of Article 13 – in the case

HMP Magilligan Skype Plan to be Extended *BBC News*

More than 70 approved prisoners currently have access to Skype technology from inside the prison near Limavady. The prison is believed to be the first in the UK to allow inmates to use the technology. Calls are made in a sound-proof suite, but are monitored by security cameras. It was originally launched in a pilot scheme and could be extended to other prisons in Northern Ireland in the future. The uptake among the prison population was slow to start but it is being used by more and more prisoners, including foreign nationals.

Hostages: Mark Alexander, Anis Sardar, 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, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, 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 Allan, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 557 (26/11/2015) - Cost £1

'We Were Never Going to be Collateral Damage' Jon Robins, Justice Gap

I would do the school run, come home and get the paperwork out,' recalls Louise Long. 'For weeks on end the kids weren't allowed to open the windows in our lounge because the papers were all over the carpet. The kids weren't allowed to touch anything.' For months, days after day, Louise would sift through the mountain of documents in an attempt to clear her husband's name in relation to allegations of sexual assaults made by his daughter which, she claimed, took place almost four decades ago. Geoffrey Long, a 67 year old building and decorating contractor living on the south coast, was convicted of five sexual assaults in October 2010. He spent 20 months in prison as a result of those allegations. He walked out of the Court of Appeal three years ago a free man in June 2012, his conviction quashed and a fresh trial ordered. Earlier this year that second trial at Lewes Crown Court collapsed after the daughter admitted she had been lying almost immediately under cross-examination. This was the second attempt at a retrial – the first collapsed in February 2014, after it was revealed that the main prosecution witnesses had been recording the trial in a failed attempt to improve their own evidence. The case should never have got this far. That it did raises serious questions about the justice system.

In January, the CPS dropped charges against Geoffrey Long's eldest son – he had gone to the police in 2012 to say that his sister had admitted lying to him. The police not only refused to believe the son, but prosecuted him for attempting to pervert the course of justice. The day after the Crown dropped the charges against the son, they dropped the case against the father. That should have marked the end of a six-year nightmare for the couple except, of course, it never ends. Earlier this month, Geoff Long was called a paedophile and asked to leave the house of a prospective new client in Brighton. He knew Long from a golfing tournament that they had played in years ago. 'I'll never be totally free of it. The stigma follows you,' Geoff tells me. 'When you get to the age of 67 you haven't enough years ahead of you to feel normal again.' This disturbing case raises serious questions about our criminal justice system. 'Frankly, it was blindingly obvious that the allegations made against him were false back in 2012,' comments solicitor Mark Newby. 'That the Crown stuck doggedly to a case – there was not one but two attempts at a retrial – is not only a scandalous waste of money but, even more alarming, reveals a credulous approach to self-evidently flawed evidence. It always was a nothing case. What was the prosecution thinking?'

A CPS spokesperson points out that the 2010 convictions were 'successfully appealed due to a misdirection by the judge in the original case'. 'This finding did not affect the prosecution evidence and so it was proper to apply for a retrial – which was granted by the Court of Appeal.' 'Live evidence in the retrial was, however, inconsistent with that in the original trial, and the prosecution case was therefore fatally undermined. This could not have been foreseen and as soon as this became apparent, the CPS offered no evidence.'

Collateral Damage: Geoff and Louise don't see eye to eye about going public. 'As a society we accept that there are miscarriages of justice and that there has to be collateral damage,' Geoff says as soon as we sit down. 'For every eight people who get sent to prison in relation to these types of allegations, two are innocent. They're the collateral damage.' Louise is not prepared for them to be written off as 'collateral damage'. 'There are people out there who are in the same boat as us. It's important that they know that they can fight back – and win.' Geoff cuts in: 'Look, what you did was fantastic and resulted in me being a free man,' he says.

But he takes the view that 'in 90% of cases' the partner disowns the other on conviction. 'So what's the point?' he says. 'If everyone thought the way you did,' chides Louise.

The allegations against Geoff Long were made many years after his 20-year marriage to his first wife – and with whom he had three children – came to an acrimonious end. 'I'm the first to admit it, I was no angel,' he says. 'I married young. We had kids quickly and there were affairs. I didn't behave as well as I should.' In October 2010, Geoff Long was sentenced to five years. He was convicted of five charges of sexual assault but acquitted of the main charge of rape. 'I was numb,' recalls Geoff. 'In the lead up to the trial, the barristers told me the case was a total farce and would immediately be seen as such by the jury. When I left my son in the morning, I told him I would see him later.' As it was, he wasn't to see his then four-year old son James for a year. 'All I could hear was his family behind me cheering,' his wife recalls. 'I just sat there staring at where he was standing. It was horrible. I waited for everyone to leave the courtroom and then went home.'

Geoff remembers being taken from the dock to the cell underneath. 'My barrister came down and said: "Sorry, but you should bear in mind that there is no chance of an appeal. If you're found guilty by a jury, that's it."' Geoff recalls his first night behind bars at HMP Lewes. As a result of a recent heart attack, he had had a stent fitted in his upper thigh to maintain the flow of blood to his heart. 'I thought about taking the plug out – lying there, quietly bleeding to death,' he recalls. 'If I could have ended it, I would have. I did try, but obviously not hard enough.' The following day he was visited in his cell by a prison listener, a fellow inmate assigned to help vulnerable prisoners. Geoff burst into floods of tears ('just unstoppable') and told the prisoner that he had been convicted for abusing his own daughter. 'Whatever you do, don't tell anyone what you're in for – or you're dead,' he was told.

A Better Deal: Geoff was brought up on the Moulsecombe housing estate in Brighton. 'I would describe myself as streetwise. I was the eldest of 10 children brought up on a very tough estate. But it was a strict upbringing and there was discipline. I was brought up to respect the police.' He describes his time in prison – after two months in Lewes, he was moved to HMP Maidstone for the remainder of his sentence – as 'horrendous'. 'But I got the better deal. Louise was out there in the world taking all the flak because of me. When she came for her first prison visit I told her there was not way out for me and the best thing she could do was sell the house, downsize and apply for divorce.' As her husband struggled to cope with prison life, Louise Long began her fight to clear his name. The couple would write letters to each other every day. But it wasn't easy. The year after Geoff was sent to prison, his daughter sold her story to Chat! Magazine. 'PAEDO Dad crept into my bed' was the headline on the magazine's cover.

Louise recalls being spat on by parents as she dropped James off at school and, on one occasion, being physically attacked. She was sitting in her car with her seat belt on when another mother came over, punched her in the face and keyed her car. James, then seven years old, was sitting behind her with his seat belt on. Apparently the mother had flown into a rage when her daughter told her that James had asked her: 'Do you want to play with me'. 'To be honest, I understand her response but I had to press charges,' Louise says. The woman received a two-year suspended sentence.

Back in 2009, the couple had been about to set up a children's nursery which, they believe, is why the allegations of abuse first surfaced, as a vindictive attempt to close down the business. There had been a major family rift between Long and his first wife and children. The allegations began when the couple refused to take the child of Geoff's eldest into the nursery. His daughter went to Brighton police's historic sexual abuse inquiry team to say that 30 years earlier, when she was just eight, she had been abused by her father. The impact was imme-

ness required for treatment to be regarded as degrading, within the meaning of Article 3, had thus been exceeded and there had therefore been a violation of that

Article 13 (right to an effective remedy) taken together with Article 3 - The Court noted that, on account of the repeated prison transfers – circumstances voluntarily created by the authorities – the protection available from the urgent applications judge had not proved effective. It was because of the repeated transfers that, on two occasions, proceedings brought by the applicant had either become without object or had not enabled him to prove the urgency of the matter such as to justify the jurisdiction of that judge. The Court concluded that Farid Bamouhammad had not had an effective remedy by which to submit his complaints under Article 3. There had thus been a violation of Article 13 taken together with Article 3. - Article 46 (binding force and execution of judgments) The Court took note of the introduction under Belgian law of a specific right of prisoners to complain to a complaints board attached to the supervisory committees in each prison. The relevant provisions had not yet entered into force, however, in the absence of a royal implementing decree. With that in mind, the Court recommended that Belgium adopt general measures: the introduction of a remedy adapted to the situation of prisoners who were subjected to transfers and to special measures such as those imposed on Farid Bamouhammad. Article 41 (just satisfaction) The Court held that Belgium was to pay Farid Bamouhammad 12,000 euros (EUR) in respect of nonpecuniary damage and EUR 30,000 in respect of costs and expenses.

Caroline Berriman Jailed After Suspended Sentence Deemed Too Lenient *Telegraph*

A teaching assistant who had sex with a 15-year-old student has had her suspended sentence replaced with an immediate two-year jail term by the Court of Appeal. Caroline Berriman, 30, admitted that she had penetrative and oral sex with the teenager, who cannot be identified for legal reasons, while working at Abraham Moss Community School in Manchester. At Manchester Crown Court in September, she was given a two-year suspended sentence but that was referred by Attorney General Jeremy Wright as being unduly lenient.

On Tuesday 17th November, three judges in London, headed by Lord Justice Treacy, said a sentence of immediate custody was in all the circumstances "clearly necessary and proportionate". Berriman, of Oldham, Lancashire, was ordered to surrender to her local police station by 6pm. Lord Justice Treacy said the sexual activity took place on 80 occasions over three to four months and resulted in a pregnancy which was terminated. The boy, who believed he was in love and in a normal boyfriend/girlfriend relationship, eventually moved in with Berriman but when the situation deteriorated, he rang ChildLine and said he was thinking of taking his own life.

When the police became involved, he told them he felt "scarred" by what had happened. The trial judge took into account Berriman's guilty plea, her previous good character and favourable references, and the fact she had to care for a young child. But the Attorney General pointed to the abuse of trust, the disparity in age and the significant degree of planning or grooming behaviour. Lord Justice Treacy said: "The purpose of the legislation is to protect young people from harm - at times protecting them from their own urges and inclinations. The victim was a youth for whom the offender had responsibility in her role as a teaching assistant.

"She knew her initial contact with him was entirely wrong but persisted and then enabled and allowed it to develop into a legally prohibited sexual relationship. She did so fully aware of the consequences for her if she was found out. She is an intelligent and well qualified young woman who was at the time nearly twice his age. What took place did so on a very large number of occasions and involved her taking the victim to live with her as if the pair were ordinary lovers. It seems

Lantin prison in June 2008 and until his release in 2014, Farid Bamouhammad was placed, in each prison, under a "special individual security regime" on account of his violent behaviour. This regime included solitary confinement and/or systematic searches.

On a number of occasions between December 2007 and January 2009, Farid Bamouhammad brought proceedings against the State. He complained about the conditions of his detention and requested a visit from a psychotherapist. The domestic courts dismissed his requests, finding that the measures in question could not be described as inhuman and degrading treatment, but were security measures justified by his violent conduct. Although he had been eligible for day release since 2007, prison leave since 2008 and to release on licence with electronic tagging since 2009, all requests for such alternative arrangements were denied by the domestic courts. On 26 November 2014, when he was starting the seventh week of a hunger strike, Farid Bamouhammad lodged his application with the European Court of Human Rights, which, under Rule 39 of its Rules of Court, decided to indicate to the Belgian Government that all necessary measures should be taken to ensure that he receive treatment that met the requirements of the Convention. On 29 November 2014 he was transferred to a secure room at the Citadelle Hospital in Liège. On 30 November 2014, on a unilateral application from Farid Bamouhammad, the President of the Liège Court of First Instance ordered his release on licence. The Belgian Government applied as a third party to have that order set aside. On 30 March 2015 the Court of Appeal took the view that Farid Bamouhammad had not satisfied the conditions governing the use of the urgent application procedure as the matter lacked the requisite degree of urgency. He was returned to the prison of St Gilles (Brussels) on 1 April 2015. Farid Bamouhammad's release on licence was finally ordered by the sentence execution judge on 10 April 2015.

Decision of the Court - Article 3 (prohibition of inhuman or degrading treatment) - In the Court's view, it did not appear from the case file that the vast majority of the 43 transfers to which Farid Bamouhammad had been subjected over a six-year period had been justified by security imperatives in the various prisons or by any need to avoid a risk of escape. Also bearing in mind that most of the psychological reports agreed that the repeated changes of prison had had negative effects on his mental well-being, the Court was not convinced that a fair balance had been struck by the prison authorities between the security imperatives and the need to ensure that he was detained in humane conditions. The Court found that, at a time when Farid Bamouhammad was already being repeatedly transferred, his solitary confinement for a period of 7 years and the systematic prolongation of the special security measures for such a long time, combined with the decline in his mental health, were to be taken into account to assess whether the threshold of seriousness under Article 3 had been reached. The Court noted that the need for a psychological supervision of Farid Bamouhammad had been emphasised by all the medical reports. However, his endless transfers had prevented such supervision. According to the experts, his already fragile mental health had not ceased to worsen throughout his detention. The Court concluded that the prison authorities had not sufficiently considered the applicant's vulnerability or envisaged his situation from a humanitarian perspective.

The Court then observed the reports by professionals who, having direct knowledge of the applicant's detention, had repeatedly taken the view since 2011 that his imprisonment, which had been virtually continuous since 1984, no longer satisfied its legitimate objectives, and who had advocated alternative arrangements. Despite these professionals' views and the decline in Farid Bamouhammad's state of health, the prison authorities had persisted in their refusal to improve his situation in the form of day release or prison leave. In the light of the foregoing, the manner of execution of Farid Bamouhammad's detention had subjected him to distress of an intensity exceeding the inevitable level of suffering inherent in detention. The level of serious-

diate. 'I had to sell the nursery,' Louise says. 'The child-minding business which I had run for six years closed the day after the police came to arrest Geoff in 2009.'

Geoffrey Long went to the police station with a local solicitor who specialized in conveyancing and had no experience of police stations. 'He just let me go on and on,' Geoff Long recalls. It so happened that Long, a keen football fan, had a very good memory of his weekend activities in 1979 (when it was claimed he was abusing his daughter). 'That was the year that Brighton got promoted to the old first division for the first time in their history,' he says; adding that he would tour the country together with his girlfriend watching his favorite team. 'I literally poured my life out, including my affairs to the two interviewing police officers,' he says. 'If you are an innocent person, you think that you have nothing to be scared of.' As it was the prosecution reenacted that interview at his subsequent trial. 'One played my part, the other played the police officer and they went through the statement in front of the jury in which I said I had two affairs, one resulted in me being divorced and having a child outside my marriage. It made me look like a devious person. The prosecution turned to the jury and said: "How can you believe this man who is an obvious liar?". The jury found me not guilty on the most serious charge – rape – but because of my history found me guilty on the indecent assault charges.'

The Fight Back: Despite having no income and a husband in prison, the couple was deemed not eligible for legal aid because of the equity in their property. Louise Long approached the solicitor and www.thejusticegap.com contributor Mark Newby. He sent over a pamphlet explaining how to research your own appeal. Newby and the barrister Mark Barlow, from Garden Court North chambers, went on to represent Long at the Court of Appeal on a pro bono basis. Louise Long, one of life's fighters, did the digging herself. Under a Freedom of Information Act request – and at a cost of £800 – Louise got hold of 3,600 pages of undisclosed evidence, including copies of the investigating officer's notebooks. She also spent £3,000 on court transcript of the original trial. The undisclosed material from the police revealed critical evidence that undermined the prosecution case. For example, it was proved that there was no sink in the room where the attacks were claimed to have been made. It was always alleged by the daughter that the father had washed himself and his daughter in a sink in the bedroom after the attacks.

The bingo hall where Long's first wife claimed that she was at when he was supposedly abusing their daughter had closed decades before the alleged assaults. Louise found her husband's ex-girlfriend of the time who confirmed she was with him every Saturday night. It seemed like a shocking miscarriage of justice was revealed when in October 2012 Long's son went to the police to say that his sister had drunkenly confided in him that she made all the allegations up. But the nightmare continued. Instead of dropping the case, the police prosecuted the son for attempting to pervert the course of justice. It was not until January this year when the trial finally collapsed after the daughter admitted lying under cross-examination. The CPS decided not to offer any further evidence and the trial was abandoned. The Crown dropped charges against both father and son. A spokesman for Sussex Police said that 'a not guilty verdict does not automatically mean that witnesses must have committed offences'. 'The case was fully discussed with senior CPS management after the retrial was discontinued,' he said. 'No request or suggestion was received from them that there should be any re-investigation, and there are no grounds for carrying one out.'

How do the Longs feel about their six years of hell? 'I do not want to see anyone else going to prison now,' Geoff tells me. 'I worked my feelings of revenge out when I was in prison. Obviously I felt very angry then. You have to work through the anger. It happened, you cannot change it. We aren't over this by any means. But we are still together and getting on with our lives.' 'I am just glad I found the strength to carry on and find the evidence to prove Geoff's innocence,' says Louise. 'Life really can get better – no matter how bad it seems at the time or what people throw at you.'

Immigration Detainees in Prison - A Findings Paper by HM Inspectorate of Prisons

This paper draws together findings and survey results from HM Inspectorate of Prisons inspection reports published between 1 April 2013 and 31 March 2015. It aims to set out the experiences of immigration detainees in prisons and compare it with the experiences of those in Immigration Removal Centres (IRCs). On 30 June 2015, about 9,300 foreign nationals were held in prisons in England and Wales; about 11% of the total prison population. On completion of their criminal sentence, foreign nationals1 of interest to the Home Office are either: removed or deported from the UK - released into the community while their immigration case is concluded - detained in an immigration removal centre (IRC) - detained in prison.

1.4 Of these 9,300 foreign nationals, the Home Office was considering or pursuing deportation action against 5,242 individuals. Three-hundred-and-fifty-seven people were held in prisons under immigration powers4. Almost all immigration detainees held in prisons are ex-prisoners5.

1.5 The National Offender Management Service (NOMS) and the Home Office have a memorandum of understanding setting an agreed number of beds in the prison estate that can be used for immigration detainees. On 31 March 2015 the number of beds was 400.

1.6 Immigration enforcement caseworkers, based in units around the UK, manage prisoner's immigration cases. Cases are allocated to units based on their type and where the prisoner was living when they first came in contact with immigration enforcement. These caseworkers decide whether the prisoner will be detained under immigration powers on completion of their custodial sentence or released. The objective of immigration enforcement is to remove or depart individuals, not prepare them for community rehabilitation or reintegration.

1.7 The Home Office's Detainee Population Management Unit (DEPMU) decides if immigration detainees are to be held in a prison or an IRC6. The decision to keep individuals in prison is made not by an immigration judge, but by a junior civil servant. DEPMU follows Home Office policy7 when making this decision. There are two types of immigration detainee held in prison: those presenting risks and those not presenting risks.

1.8 The following risks are assessed when deciding to hold someone in prison: - national security - seriousness and nature of the index offence - risks to children - risks to victims - security - control - behaviour in custody - health.

1.9 Detainees presenting risks are more likely to be held in prisons than those without risk factors, and are generally not transferred to an IRC. Detainees not presenting risks are normally transferred to an IRC on completion of their sentence. There are a fixed number of allocated bed spaces in IRCs for ex-prisoners. If all of these spaces are full, the detainee remains in the prison estate and will only be transferred to an IRC when a space becomes available. Priority for transfer to an IRC is given to those without risk factors who have been held in prison under immigration powers the longest. However, not all immigration detainees are transferred to an IRC before leaving detention. In March 2014, the last month for which figures are available, 42 immigration detainees were removed from the UK directly from prisons. A further 20 were granted bail or temporary admission directly from prisons.

1.10 In almost all our inspections of men's prisons we find immigration detainees. The numbers vary between prisons but we often find more in large urban areas, especially London. For example, in our 2014 inspection of Wormwood Scrubs, a 'hub' prison for foreign national prisoners, we found 53 immigration detainees, one of whom had been held for 18 months after completing his sentence.

1.11 The regimes under which immigration detainees are held differ according to the type of establishment they are in. The management of immigration detainees in prisons is governed by the

techniques were used frequently in YOIs, although it should only be used as a last resort to prevent an immediate risk of serious physical harm; • some establishments did not call health services staff to all incidents, and support for children after a restraint also required improvement; • the introduction of dedicated MMPR coordinators to drive improvements in local practice, together with a comprehensive system of national governance and oversight was positive; • poor local recording, inadequate quality assurance and inconsistent referrals undermined this improved oversight.

Nick Hardwick said: "Improved restraint processes, although very necessary, cannot alone reduce their use or make them safer. That depends much more on the structure of the estate, the quality and training of staff, and the culture in the place. As our inspection reports on individual establishments repeatedly show, none of these are adequate to meet the needs of the children who are now in custody. The Justice Secretary has announced a review of the youth justice system and we hope this will create the opportunity to make the wider improvements to the juvenile custodial estate that are essential if MMPR is to achieve its full potential. Further progress is necessary both to ensure that past tragedies are not repeated and to give staff the tools to better manage the behaviour of some of our most troubled and challenging children on a day to day basis. MMPR has the potential to deliver those improvements but that potential is not yet realised."

Prison Conditions Constituted Degrading Treatment Of Detainee With Fragile Mental Health

In Chamber judgment in the case of Bamouhammad v. Belgium (application no. 47687/13) the ECtHR held, unanimously, that there had been: a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, and a violation of Article 13 (right to an effective remedy) taken together with Article 3 of the Convention.

The case concerned the conditions of detention of Farid Bamouhammad and the resulting decline in his mental health. This former prisoner suffers from Ganser syndrome (or "prison psychosis"). The Court found in particular that the manner of execution of Farid Bamouhammad's detention, involving continuous transfers between prisons and repeated special measures, together with the prison authority's delay in providing him with therapy and refusal to consider any alternative to custody despite the decline in his state of health, had subjected him to distress of an intensity exceeding the inevitable level of suffering inherent in detention. The level of seriousness required for treatment to be regarded as degrading, within the meaning of Article 3, had thus been exceeded. Indeed, the Court recommended under Article 46 (binding force and execution of judgments) that Belgium should introduce a remedy under Belgian law for prisoners to complain about transfers and special measures such as those imposed on Mr Bamouhammad.

Principal facts: The applicant, Farid Bamouhammad, is a French national who was born in 1967 and lives in Wanfercée-Baulet (Belgium). Between 1984 and 2008, in a number of judgments, he was convicted in Belgium of, among other offences, premeditated murder, robbery and hostage-taking. In 2007 a psychiatrist noted that Farid Bamouhammad was suffering from Ganser syndrome (also known as "prison psychosis") and that his mental state was deteriorating, on account of his special prison regime and frequent transfers. From January 2006 to November 2014 Farid Bamouhammad was transferred about 40 times from one prison to another. Owing to problems of discipline and violence, he was restrained by his wrists and ankles throughout his time in Ittre prison, from 6 to 16 December 2007. On 16 December 2007 he was transferred to Lantin prison, where he was subjected to a "strict cell regime", involving periods in solitary confinement, the systematic wearing of handcuffs whenever he left his cell and full-body searches. After he left

cides" reported to the bureau voluntarily by police departments that choose to participate. Packnett said that while the government was "still in the beginning stages" of instigating that process, campaigners realised "it's not enough just to talk about police involved shootings". "We have to talk about in custody deaths, we have to talk about non-lethal police violence, we need to talk about particularly vulnerable communities like children and the LGBTQ community," Packnett said."We have to track it all, and we have to track it knowing that stronger, more comprehensive data can better lead us to the place of building solutions."

Behaviour Management and Restraint of Children In Custody

New System an Improvement but More Consistent Delivery Required: A new system of managing physical restraint in youth custody is an improvement on what went before, said Nick Hardwick, Chief Inspector of Prisons. Today he published a report on the implementation of the new system of behaviour management and restraint in young offender institutions (YOIs) and secure training centres (STCs). The introduction of the new system, known as 'minimising and managing physical restraint' (MMPR), was the culmination of a long process initiated following the deaths of two boys in 2004. Gareth Myatt died after he became unconscious during a restraint in an STC. Adam Rickwood hung himself after a 'pain compliance' technique was applied to him.

MMPR is intended to change the approach of behaviour management within YOIs and STCs, placing an additional emphasis on the importance of staff using their existing relationships with children to de-escalate volatile incidents, and minimising the number of children who experience restraint. MMPR also includes a comprehensive system of national governance and oversight to not only monitor the use of restraint but also improve and promote safe practice across the estate. MMPR is being implemented against a backdrop of a substantial fall in the number of children in custody, the decommissioning of beds across YOIs and STCs, and staffing shortages across the YOI estate. This has caused delay in the roll-out, now scheduled to be completed in July 2016. The reduction in numbers also means that YOIs and STCs now hold a more concentrated mix of children with more challenging behaviour and complex needs than in the past.

Nick Hardwick said: "The combination of delay, resource pressures, a more complex population and concerns about overall performance mean that the new MMPR system is not yet being consistently implemented or achieving the intended outcomes. However, at this stage, I welcome the significant improvements MMPR has brought to the national oversight of restraint and the greater focus on communication and de-escalation as part of a wider approach to behaviour management".

Inspectors found that: • while it is sometimes necessary to restrain children, as others have found, there is no such thing as 'entirely safe' restraint; • effective relationships between staff and children were more difficult to establish in YOIs, which are larger than STCs and have lower staffing levels; • all establishments had implemented behaviour management plans for children with more challenging behaviour, which was progress, but too many plans were of a poor standard; • children with medical or other conditions that could be affected by MMPR could have restraint handling plans put in place and establishments could seek medical advice through an expert panel, but staff did not always adhere to these plans during a restraint; • many children were unable to identify any difference between their experience of MMPR and previous behaviour management systems; • children's own experiences of de-escalation before and during restraint varied and the experience remained, for many, painful and distressing; • the practice relating to restraining children on the floor, head holds, strip-searches under restraint and the use of pain-inducing techniques was concerning; • pain-inducing

Prison Rules, while detainees in IRCs are managed according to Detention Centre Rules. The two sets of rules differ significantly and impact greatly on detainees' experiences of custody.

1.12 In theory it is NOMS policy to treat immigration detainees as unconvicted prisoners. In practice not all detainees are treated as such. NOMS only applies this policy in prisons where unconvicted prisoners are held: normally local prisons serving local courts. In general, local prisons tend to be less safe and respectful due to their age (many are Victorian jails based in city centres) and the high turnover of prisoners. Many immigration detainees are held in non-local prisons. On completion of their sentence they are asked if they wish to transfer to a local prison or remain in the prison they are in under prison rules. Many prisoners choose the later as they feel settled, have good relationships with staff and other prisoners, and know conditions are likely to be worse if they transfer. Others choose to stay because they are held close to their family members. If a detainee elects to stay they have to confirm in writing that they are happy to forfeit their right to be treated as an unconvicted prisoner and be managed as a convicted prisoner. Choosing to transfer to a local prison will not always guarantee better treatment than sentenced prisoners. In our remand thematic report in 20128, we found that 'despite a long established principle that remand prisoners… have rights and entitlements not available to sentenced prisoners, we found that many had a poorer regime, less support and less preparation for release'.

1.13 We recognise that a small number of individuals are not suitable for IRCs due to the high risks they pose. A brief period of detention in a prison may be necessary in a handful of cases before removal. However, these risks are not currently clearly documented, regularly reviewed or explained in writing to detainees. Immigration detainees tell us that they experience little change in their treatment when they transition from being held under criminal to immigration powers. Indeed prison officers are sometimes unaware that they are holding immigration detainees. Some detainees spend too long in prison: at HMP Lincoln in 2013, for example, six prisoners had been held for more than a year and the longest for more than two years. These were very long periods of time, especially since detention is not authorised by immigration judges.

Our expectations 1.14 We inspect against independent criteria known as Expectations10. These are based on international human rights standards. We assess the conditions in which detainees are held and how they are treated. Our inspections focus on outcomes for detainees and we aim to understand their real experience. Expectations are underpinned by indicators which set out evidence that may suggest that an expectation has been achieved. In the equality and diversity section of our prison Expectations we state: 'Prisoners of all nationalities are treated equitably and according to their individual needs.'

1.15 The following are examples of indicators that may tell us if the expectation has been achieved: 'Immigration detainees held solely under administrative powers are not held in prisons other than in exceptional circumstances following risk assessment.' - 'Prisoners have access to accredited, independent immigration advice and support agencies.'

Differences between IRCs and prisons

1.16 A number of material differences between prison and IRC regimes affect immigration detainees' experiences of their custody.

Access to legal advice and representation 1.17 Immigration detainees in prisons have much poorer access to publically funded legal advice and representation than those held in IRCs. All detainees in IRCs can receive 30 minutes of free legal advice from accredited immigration advisors.

1.18 The Legal Aid Agency (LAA) commissions legal representatives to provide advice services in all IRCs. The LAA pays legal representatives to travel to the centres. In addition to giving free legal advice, representatives must: - assess the merits of detainees' substantive protection

claims11 and, if there is merit, provide representation - make meritorious temporary admission or bail applications - continue to advise detainees in relation to future bail applications.

1.19 Through the LAA all detainees who lack sufficient means to pay for it themselves should be guaranteed free ongoing bail advice as a minimum. In our surveys 31% of detainees in IRCs said it was easy to get bail information, far more than in prisons where the figure was just 6%.

1.20 While there are failings in the operation of the LAA duty advice service in IRCs (often waiting times are too long and centre staff do not always understand how it should function12) it is better than what is available to detainees in prison.

1.21 As there is no duty advice scheme, detainees in prisons have no guaranteed access to a legal advisor. Instead they have to contact lawyers themselves. Many such immigration detainees rely on word of mouth recommendations from other prisoners or the advertisements in the prisoner newspaper, Inside Time, to source a lawyer. The terms of the contract with the LAA mean that lawyers may be reluctant to visit immigration detainees in prisons because of the long travel times associated with getting to some prisons. In addition, lawyers will only visit detainees if they know they will get paid by the LAA. However, the LAA will only fund a protection case if it has a 50% chance of success. To assess whether the case meets this threshold a face-to-face interview is required between the lawyer and the detainee. In an IRC this assessment can be conducted in the free 30 minute advice slot. But for prisons lawyers find themselves in a catch 22 situation: they are unlikely to risk travelling, sometimes long distances, to take instructions from a detainee if there is a chance they will not be paid.

1.22 Furthermore, unlike at the LAA-funded advice surgeries in IRCs, lawyers visiting detainees in prisons are not required to keep the prospects of success of a bail application under review. In an IRC advice surgery, if a detainee's bail application is deemed not to have a 50% chance of success, the lawyer cannot apply for bail. However, the lawyer is obliged to review this merits assessment at a later stage13. These funding arrangements mean that detainees held in prisons have less access to justice than those in IRCs.

1.23 In our prison inspections we found that few prisons had arrangements for independent immigration advisors to attend. At HMP Swaleside in 2014, 'There was no access to accredited, independent immigration advice, and foreign national prisoners expressed frustration at the lack of information provided about their immigration status post-sentence.' At HMP Hindley in 2014, we found '… a small number of foreign nationals who were no longer able to obtain legal aid for advice and representation. We were told they were "confused, anxious, in panic or in denial" about their immigration status.'14 These difficulties in accessing justice are compounded by poor communication facilities. Communication with the outside world 1.24 It is harder for immigration detainees in prisons to communicate with the outside world than for those in IRCs. These communication difficulties impact on detainees in a number of ways.

1.25 Detainees in IRCs are allowed to retain mobile phones that do not have a camera or internet access. As few phones now do not have cameras, IRC staff lend out suitable mobile phones into which detainees can insert their own SIM cards. Detainees can also purchase new mobile phones in IRCs. Despite some difficulties with SIM card compatibility and poor reception, detainees in IRCs can generally communicate with the outside world by telephone whenever they want, providing they have appropriate credit.

1.26 In contrast, telephone provision for immigration detainees in prisons is much more restricted. Detainees are issued with a PIN which they use to make calls from phones normally located on wings. Detainees apply to have phone numbers added to their PIN phone account and only numbers that have been approved by prison security staff are added. Detainees in prisons,

replica, police said. "Officers working sideshow approached by subject who pointed firearm in their direction," the Oakland police department said on Twitter. "Officers fatally shot subject." A spokeswoman said the department would investigate the shooting itself. The man's name was not released. Hundreds of cars had been involved in hours of chaotic sideshow stunts that shut down several intersections in Oakland from late on Saturday into the early hours of Sunday, according to police. One man was arrested and several shots were fired. The man shot in Oakland became the 1,000th database entry in The Counted, an ongoing investigation by the Guardian to record every fatality caused by police and other law enforcement officers in 2015, to monitor the demographics of the people who died and detail how and why they were killed.

Sunday's incident was the 883rd fatal shooting by a law enforcement officer so far in 2015, according to the Guardian's records. Another 47 people died after being shocked with an officer's Taser, 33 died after being struck by a law enforcement officer's vehicle, and 36 were killed in custody. Another received a deadly blow to the head during a fight with an officer. The shooting was also the 183rd death recorded in California, by far the greatest total of any state. Nine states, however, have recorded more deaths per capita, with Oklahoma having the highest rate. The Guardian has created the most detailed map of police killings ever published. Find your hometown and explore the most lethal police departments in America

The US government publishes no comprehensive record of people killed by law enforcement, even after a series of controversial deaths unleashed a national protest movement and demands from activists and lawmakers alike for better data on the subject. An analysis of the statistics collected so far found the rate of deaths currently stands at 3.1 per day. This rate has remained relatively steady throughout the year, peaking through the month of March to a daily rate of almost four and dipping to an average of 2.6 through June. The Counted was launched on 1 June, logging 464 deaths in the year to that point. At that time 102 or 22% of those killed had been unarmed. This proportion has since fallen slightly to 20% or 198 of the total 1,000. In 59 deaths, however, it remains unclear whether the suspect was armed.

As of 1 June, black Americans were more than twice as likely to be unarmed as white Americans when killed by police. At that point 32% of the 135 black people killed by police had been unarmed, compared with 15% of the 234 white people. This disparity has since shrunk, with 26% of the 248 black people and 18% of 490 white people being recorded as unarmed.

Brittany Packnett, a member of Barack Obama's taskforce on 21st century policing and a founder of the Campaign Zero movement that lobbies to curb the levels of police violence in America, said the milestone should be met with "sadness, but not deep shock". "Black folks like me have known for a long time that the police do not always represent safety for us and that an encounter could be deadly," said Packnett. "But having these statistics that add to our personal stories should continue to move everyone towards wanting to having a part in correcting this." Obama's taskforce, convened after unrest in Ferguson, followed the decision not to prosecute the white officer who shot dead Michael Brown, an unarmed black 18-year-old, and made the collection of more reliable data on the number of police killings in the US one of its central recommendations.

FBI director James Comey said earlier this year that it was "ridiculous and embarrassing" that the Guardian and a separate project by the Washington Post had better information than the federal government about deaths at the hands of law enforcement officers. The Department of Justice is trialling a new program, which resembles The Counted, to proactively collect data on killings by police. Currently, the FBI records the number of "justifiable homi-

was a serious failure, he said, that the prison had failed to communicate the information held about Mohamoud's symptoms to the medical specialists.

Yet another hospital appointment was cancelled by G4S because of a lack of escorts. Mohamoud was eventually taken to an appointment with another specialist in December 2013. However, yet again the prison failed to convey information about Mohamoud's symptoms to the consultant who – in her evidence before the court – stated that she would have diagnosed epilepsy if she had received the relevant information. Not only was she unaware of key details of the seizures that Mohamoud had suffered in prison, she was also not told about his previous appointment in August. The jury found that G4S had failed to provide adequate, up to date information to the medical specialists with whom Mohamoud had appointments. The jury went on to find that within the prison healthcare department, information sharing was inconsistent and varied, and moreover, that knowledge sharing between prison staff was inadequate. The Coroner noted Professor Koepp's opinion that the prison had accumulated information that would be of immense assistance to an epilepsy expert – indeed, that be would have been decisive in making a diagnosis, but that it was a serious failure not to convey that information those records to the expert neurologists to whom Mohamoud had been referred.

The court also heard evidence from Professor Koepp as to the ever-present dangers of SUDEP to epilepsy sufferers, and the dramatic increase in that risk if they sleep alone. At the time of his death, Mohamoud was detained in a single occupancy cell. The jury found a possible failure by the prison authorities to consider medical input in cell sharing risk assessments. After the jury returned their conclusions, the Coroner noted his intention to issue a report with recommendations aiming to prevent future deaths, which will be sent to G4S at HMP Parc, as well as to Healthcare Inspectorate Wales and the Chief Coroner.

Holima Warsama, mother of Mohamoud, said: I can't bring my son back, but for people in the same boat, dealing with the same company, G4S, I want to make people aware of what can happen to people in prison in immigration detention. Unlike the vast majority of prisoners at HMP Parc, who were serving criminal sentences, in administrative detention Mohamoud was living with the uncertainty of not knowing how long he would be there, or even really understanding why he was there. I don't want other people to have to grieve and to have to go through an inquest. One of the most upsetting things is that the information sharing about Mohamoud's epilepsy failed to get to the specialists, who needed that information, to give him proper care.

Deborah Coles, co-director of INQUEST said: "This inquest has found unacceptable failures of medical care in a G4s ran private prison. This is not an isolated case, and indicates failure to act on previous recommendations. How many more deaths need to take place before there is decisive action to deal with issues such as basic information sharing?" .

INQUEST has been working with the family of Mohamoud since February 2014. The family is represented by INQUEST Lawyers Group members Matt Foot of Birnberg Peirce and Partners and Paul Clark of Garden Court Chambers.

Number of People Killed by US Police in 2015 at 1,000

Jon Swaine and Oliver Laughland, Guardian: The number of people killed by law enforcement in the US this year has reached 1,000 after officers in Oakland, California, shot dead a man who allegedly pointed a replica gun at them. Authorities said several officers opened fire on the man on Sunday evening when he walked toward them as they towed away cars that had been used to perform so-called "sideshow" stunts in east Oakland. Officers discovered later that the gun was a

unlike in IRCs, cannot receive incoming calls. They must also be out of their cells to make the calls as most phones, except in a minority of prisons where they are in cells, are located on wings.

1.27 A further key difference between IRCs and prisons is internet access. Immigration detainees in prisons are forbidden internet access. Detainees in IRCs, however, can browse the internet and access web-based email accounts such as Hotmail and Yahoo. Despite difficulties with overzealous filtering software which results in legitimate websites being blocked and a lack of access to social networking websites, we find that access to the internet in IRCs is reasonably good.

1.28 Communication restrictions in prisons impact on detainee outcomes in four important respects. First, it impacts on access to justice. It is more difficult for detainees in prisons to identify, instruct and maintain contact with a lawyer than it is for detainees in IRCs. Immigration detainees only have five days in which to appeal against negative protection and deportation decisions. Removal directions are often served 72 hours before removal. Given these tight deadlines, delays in contacting legal representatives can cause serious problems. In our surveys, fewer detainees in prisons than those in IRCs (28% compared with 66%) said that it was easy to communicate with their legal representatives. For detainees applying for asylum, good internet and telephone access allows them to research information about their country of origin to inform their cases. For those challenging their deportation on family life grounds, good communication allows them to contact friends and family and gather evidence to show the strength of their family and social ties in the UK.

1.29 Second, poor communication with the outside world may influence reoffending rates. Around 45% of immigration detainees are released back into the community, many under licence. NOMS has a duty to ensure they are prepared for their resettlement. In our recent joint thematic paper published with HM Inspectorate of Probation and Ofsted, Resettlement provision for adult offenders, we found that 'an offender's family are the most effective resettlement strategy' and that 'helping offenders maintain or restore relationships with their family and friends, where this is appropriate, should be central to the resettlement effort.' Detainees in IRCs are better equipped to maintain these family ties, largely due to communication facilities.

1.30 Third, poor communication may impede voluntary return. Some detainees want to return voluntarily and internet access allows them to better prepare for their return. There are also a number of detainees who are considering whether to contest their removal or return home voluntarily. Up-to-date and accurate information that the detainee can research assists them in making an informed decision on their future: to stay and fight their case in the UK, or to return voluntarily.

1.31 Fourth, detainees cannot properly prepare for their return without good means of communication with their country of origin. Many ex-prisoners have lived in the UK for years, some for most of their lives. Rebuilding their lives in their country of origin requires finding work, accommodation, contacting family and friends, and arranging transport. All of these are more straightforward if the detainee can communicate easily with those in their country of origin.

1.32 We recognise that some detainees' licence conditions restrict who they can contact. Any changes to detainees' means of communication would have to involve appropriate monitoring to make sure licence conditions are not breached. Equally it is important to remind ourselves that British nationals who have committed exactly the same crime and given the same licence conditions, would be released into the community where telephones and internet are freely available.

Feelings of safety and respect 1.33 Prisons are more violent establishments than IRCs, with more reported fights and assaults. Immigration detainees in prisons report high levels of victimisation. In our surveys, the numbers of detainees in prisons who said they currently felt unsafe was comparable to those in IRCs (29% compared with 32%). However, more

detainees in prisons said that they had been victimised by other inmates than those held in IRCs (34% compared with 19%). This may not be surprising given that, in general, those held in IRCs have not committed offences. By definition, prisons hold those who may not have addressed their offending behaviour. What is more surprising is that 41% of detainees in prisons say they had been victimised by staff, far more than the 15% in IRCs. These findings may reflect the fact that detainees in prisons are likely to include those whose behaviour is difficult to manage and this may be reflected in poorer relationships with staff.

1.34 In our surveys detainees in prisons reported more negatively in terms of respect than those held in IRCs. For example, fewer detainees in prisons than those in IRCs (63% compared with 76%) said that staff treated them with respect. In many IRCs relationships between detainees and staff were good. At Haslar IRC in 2014 we found: 'Survey results relating to relationships were very positive and had improved since our last full inspection. Detainees in our groups reported that staff treated them with respect and were helpful.' This contrasted with the sometimes very poor relationships we found in prisons. For example at HMP Elmley in 2014, we found: 'Staff-prisoner relationships had deteriorated since our previous inspection. Staff had little time to interact meaningfully with or support prisoners. The personal officer scheme did not function properly.' At HMP Nottingham in 2014, we wrote: '… a recent redeployment of staff from other establishments had resulted in a lack of consistency and knowledge about prisoners. Many staff routinely addressed prisoners by their surnames, and we observed generally low levels of engagement between staff and prisoners.'

1.35 Feelings of safety are influenced by detainees' ability to communicate with other detainees and staff. A detainee who can communicate with staff and other inmates will feel safer. Three factors influence detainees' communication abilities: their competence in English, the number of fellow nationals held in the establishment and the staff's use of professional interpretation. English for Speakers of Other Languages (ESOL) is taught in all IRCs but not all prisons. Even when taught in prisons, the courses are sometimes inappropriate. For example at HMP Gartree in 2014, we found non-English speakers were unable to study ESOL beyond entry level. Detainees often rely on fellow nationals with better English skills to communicate. A detainee who cannot speak English has more chance of finding a fellow national who speaks English in an IRC than a prison, given the numbers held in each type of establishment. We often criticise prison staff for not using telephone interpretation adequately. Again at HMP Gartree in 2014, we noted, 'Other than at sentence planning boards… the prison did not use telephone interpreting to speak with prisoners who did not speak English.' In 2014, at HMP Wormwood Scrubs, where 31% of the population were foreign nationals, we found that 'professional interpretation was not used enough'.

Access to Home Office staff 1.36 Immigration detainees in IRCs have more contact with staff from the Home Office's immigration enforcement directorate than those held in prisons. Decisions regarding detainees' detention and their substantive immigration cases are made not by staff in IRCs, but by decision makers in various caseworking units based around the country. The unit involved depends on the detainee's immigration case and where they lived in the UK before detention. Each IRC has a team of immigration enforcement staff tasked with facilitating communication between detainees and the decision makers. Typically, these contact teams will see all detainees shortly after arrival and then at least once a month. Decision makers are obliged to update detainees on case progress once a month. These reports are faxed to IRCs and are normally served face-to-face on detainees. The reports are always in English and the local contact staff are obliged to summarise the report using professional telephone interpreting where necessary. Detainees in IRCs can request to see the contact team at anytime to have their queries answered.

full stop." His co-defendant broke down in the witness box after telling jurors that a well-built police officer had threatened to "do" him during questioning in early 1992. O'Reilly further claimed that he was bundled into a van, blindfolded and questioned about Nicola's disappearance by a group of men later the same year.

During the case, the defence described the police's investigation in the early 1990s as "sloppy". The tent, for example, was recovered five days after Nicola vanished but was not added to the exhibits log until a month later. Addressing the jury, Mr Justice Openshaw said: "There really is no satisfactory account of where it was stored or the condition in which it was stored." He said the way records of exhibits were stored and moved was "frankly inadequate", adding: "All this demonstrates, so the defence say, a sloppy attitude." In his closing speech, Mark Dennis QC, defending Barwell, described the handling of exhibits in the case by West Midlands police in Coventry as "shambolic". Flagging up the possibility of cross-contamination, he said: "The forensic safeguards in place at Little Park Street police station in 1991-92 were in truth non-existent."

Rachel Brand QC, defending O'Reilly, told the jury the police's "desire to provide answers for the Payne family" had not resulted in any compelling evidence. Speaking outside court, Nicola's brother, Nigel Payne, said: "Our family are devastated and heavy-hearted. We have lived daily with the anguish of not knowing what's happened to our beloved Nicola, and worse than that – to this day not knowing where she is. "We'd like to say thank you to our family, friends and members of the general public, which has showed us fantastic support over these years. We also pay tribute to the police for their help in trying to bring justice for Nicola. We never thought we'd ever get this far. We will never give up on Nicola and therefore we would ask anyone with any information to come forward and contact the police or Crimestoppers." Reading a separate message from Nicola's parents, he added: "Nicola was not only our daughter, she was a loving mother to her son Owen and sister to her four older brothers. She deserves to be laid to rest. We cannot contemplate not knowing where Nicola is for another 24 years."

Inquest into Death of Mohamoud Ahmed Ali - Serious Failures by G4s

On Thursday 12 November 2015, the jury at the inquest into the death of Mohamoud Ahmed Ali returned a critical narrative conclusion identifying a number of failures by G4S prison authorities and staff. 37-year-old Mohamoud died on 1 February 2014 in HMP Parc – a prison run by G4S. He died from 'SUDEP' ('sudden unexpected death from epilepsy'). Despite having suffered several episodes of apparent seizures in December 2012, January 2013, and April 2013, he was never diagnosed with epilepsy. Although Mohamoud had been referred to hospital for assessment by specialist neurologists, the jury found that the prison repeatedly failed to transport him to appointments in May, June, and July, due to a lack of G4S staff to escort him there. The jury found that there was a failure to recognise ongoing risks to Mohamoud in the process whereby multiple medical appointments were made, and then cancelled. Even after he did make it to a hospital appointment in August 2013, no diagnosis was made. The court heard that although Mohamoud was reticent about talking about his seizures, this was not uncommon among epilepsy sufferers. The jury found that medical professionals were unaware of the information held by the prison about his condition as it did not travel with him to the appointments. The jury went on to find that, if all of the information had been available to specialists, it was probable that a diagnosis would have been made earlier. The inquest heard evidence from epilepsy expert Professor Matthias Koepp that, as early as January 2013, there was enough information in the prison records for a specialist to diagnose epilepsy, and that Mohamoud exhibited all risk factors. It

still remains in custody. It is the claimant's case that his continued detention is a result of breach by the defendants of statutory and other public law duties. It is important background to the legal issues to determine how as a matter of fact it has come about that the claimant's release to Ashdene did not take place, and I will address this question first.

Conclusion: It is a matter of regret that one and half years after the Parole Board gave a direction which was intended to result in the claimant's release on licence, this has still not happened. For the reasons given in this judgment, however, I find that this delay has not been caused by any breach of duty on the part of the defendants and that the grounds on which they are alleged to have acted unlawfully are not justified. This claim for judicial review must therefore be dismissed.

Two Men Cleared of Nicola Payne Murder *Steven Morris, Guardian*

Police have said the case of a teenage mother who vanished as she made her way across waste ground shortly before Christmas almost 25 years ago remains open after two men were cleared of her murder. Nigel Barwell and his brother-in-law, Thomas O'Reilly, both now 51, were found not guilty of abducting and murdering Nicola Payne, 18, in 1991 in Coventry, West Midlands. The prosecution had alleged that new forensic techniques meant hair found in a tent belonging to Barwell could be linked to Nicola, who had a seven-month old son. But following deliberation over three days at Birmingham crown court, a jury found the pair not guilty of murder. Barwell punched the air and mouthed: "Thank you very much," towards the jury, while O'Reilly stood silently in the dock.

The verdicts mean the agony of not knowing what happened to the teenager, whose body has never been found, goes on for her parents, John and Marilyn Payne, 70, and Nicola's son, Owen. They had hoped the new investigation would finally mean Nicola's remains would be found. John Payne wept for five minutes in the public gallery after the verdicts were returned. Outside court, DS Mark Payne from West Midlands police said: "This was always going to be a difficult and complex inquiry due to the length of time of the investigation. "The case was revisited and diligently and meticulously investigated by a team of experienced officers, before the decision was made to arrest two people. Extensive evidence was presented to the Crown Prosecution Service, which they agreed was significant enough to lead to two people being charged and brought before the courts. Our criminal justice system quite rightly demands a high standard of proof and we acknowledge today's verdict from the jury. This case will always remain open and we will investigate any new evidence which comes to light. Our thoughts remain with Nicola's family." The jury had heard how Nicola left her partner, Jason Cooke, and baby son Owen to walk to her parents' house at lunchtime on 14 December 1991. Andrew Smith QC, prosecuting, said the route across a piece of waste ground known as the Black Pad should have taken only a few minutes.

He said: "It was a journey that she never completed. The prosecution case is that Nicola Payne was abducted as she walked across the waste ground. At some point thereafter she was murdered and her body disposed of." Smith claimed that five days after Nicola vanished, a tent was found in undergrowth in Barwell's garden. In 2014, when the tent was re-examined, hairs found in it were sent for analysis and, thanks to improved scientific techniques, could be allegedly linked to the missing woman. Barwell and O'Reilly were first arrested two days after Nicola went missing but have always denied any involvement. They said they were 14 miles away in Rugby, Warwickshire, for the entire day of Nicola's disappearance after Barwell's blue Ford Capri broke down, leaving them stuck in a car park. Asked during the trial if he was involved in Nicola's disappearance, Barwell said: "Absolutely not. Me and Thomas are completely innocent of these charges. We would never harm a young lady. It never happened,

1.37 For immigration detainees in prisons, access to immigration enforcement officers is more infrequent. Prison Operational and Removal Teams (PORT) assist in managing detainees' immigration cases15. These uniformed officers are of a higher grade than staff in IRC contact teams. PORT officers conduct asylum screening and substantive interviews as well as interviews for emergency travel documents, so can help progress detainees' cases. However, not all immigration detainees in prisons have sufficient access to PORT officers. Access to immigration enforcement officers, unsurprisingly, is better in hub prisons than in spoke prisons16. For example at HMP Wandsworth in 2013 we found, 'Immigration enforcement was based on site and surgeries were held daily.' At Wormwood Scrubs in 2014, 'Five immigration enforcement officers were based in the prison, and an officer visited most wings weekly.' At other prisons, attendance was infrequent. At HMP Kennet in 2013 immigration enforcement officers 'did not visit the establishment regularly'. At HMP Wymott in 2014, we found '… there appeared to have been little, if any, meaningful contact between the prison and the Home Office…' and at HMP Durham in 2013, despite being a busy local prison, 'The Home Office only carried out a day surgery each quarter and saw a limited number of foreign national prisoners each time.'

1.38 Foreign national prisoners are too often only informed at the last minute that they will detained under immigration powers. Immigration enforcement officers frequently serve notice of detention a day or two before the end of detainees' custodial sentences. We have even met detainees who were notified of their continuing detention on the day they expected to be released.

Safeguards for torture survivors and other vulnerable groups

1.39 It is Home Office policy to only detain the following groups in a prison or detention centre in very exceptional circumstances: - those suffering from serious medical conditions which cannot be satisfactorily managed within detention - those suffering from serious mental illness which cannot be satisfactorily managed within detention - those where there is independent evidence that they have been tortured.17

1.40 Detention Centre Rule 35 obliges an IRC medical practitioner to report to the Home Office decision maker where the following detainees are held: - those whose health is likely to be injuriously affected by detention - those suspected of having suicidal intentions - those who may have been a victim of torture.

1.41 On receipt of a Rule 35 report, the Home Office decision maker must review detention. We have regularly criticised failings in Rule 35 reports and Home Office responses: reports often fail to offer meaningful commentary and replies are dismissive. Despite these criticisms, Rule 35 reports have led to the release of some vulnerable detainees from IRCs. For example, at Harmondsworth IRC in 2013, 5% of the 234 Rule 35 reports submitted in the year to our inspection led to release. No equivalent safeguard is available in prisons. There is no obligation on prison medical practitioners to communicate information regarding a detainee's health, risk of suicide or history of torture to the Home Office decision maker. This could mean that a torture survivor, or detainee who has suicidal intentions or whose health is being injured by detention, is unnecessarily detained.

Support from third sector organisations 1.42 Support services in IRCs are more tailored to immigration detainees' needs than those found in prisons. At Harmondsworth IRC in 2013, representatives from Bail for Immigration Detainees (BID) advised and supported detainees in making bail applications, Hibiscus Initiatives assisted detainees with resettlement needs, and Detention Action supported detainees. With the exception of HMP Peterborough, where Hibisicus Initiatives works with foreign national women, we find very little targeted provision for foreign nationals, let alone immigration detainees. Poor access to telephones and internet

means that detainees in prisons find it difficult to contact these groups.

1.43 This third sector support can assist immigration detainees in a variety of ways. Befrienders can help detainees cope with the stresses of detention. Hibisicus Initiatives can help with preparing detainees for their removal and reintegration in their country of origin. BID assists detainees with making bail applications and Detention Action often assists detainees in contacting legal representatives. All of these benefits are harder for detainees in prisons to access.

Welfare provision 1.44 In November 2013, the Home Office published its first detention service order (DSO) on welfare provision in IRCs19. The order states: - 'Part of the role of removal centres… is to support detainees prior to their removal. In addition IRCs should seek to minimise any unnecessary stress factors and to ensure that the transition from detention, to removal and through to re-settlement is as supported as possible, leading to detainees feeling more prepared, more informed and better able to accept the outcome of their application to remain in the country… This welfare DSO additionally seeks to provide detainees with support to return to life in the community. The overall objective of setting out minimum requirements for welfare provision in IRCs through this DSO is: - Helping detainees to prepare for their removal from the United Kingdom; - Providing information on the benefits of voluntary returns schemes; - Providing information on accessing legal services. - Assisting detainees who are released by signposting them to services and organisations which may be able to offer them support and assistance with any aspect of resettlement into the community - Offering detainees support and guidance to ease their experience of being in detention.'

1.45 The order goes on to require centres to ensure welfare services are easily accessible seven days a week for at least five hours a day.

1.46 While we are critical of some centres for the way in which these services are provided, there is no obligation on NOMS to provide specific welfare services to immigration detainees. Immigration detainees in prisons are expected to rely on their personal officers for welfare support but we find many personal officer schemes are failing. Even where personal officer schemes work well, staff often do not have the specialist knowledge of immigration procedures or detainee needs to effectively support them.

Time out of cell and free movement 1.47 Detainees in prison spend less time out of their cells than those in IRCs. In general, detainees in IRCs also have far greater free movement. At our inspections of HMP Wandsworth in 2013, where 69 immigration detainees were held, we found prisoners and detainees were out of their cells for about five to six hours a day during the week, and only three to four hours a day at weekends. At HMP Wormwood Scrubs in 2014, the 53 immigration detainees could spend up to six hours out of their cell if they were employed and only three hours if they were unemployed.

1.48 These figures compare poorly with IRCs. For example, at our 2014 inspection of Campsfield IRC detainees were never locked in their rooms. They could move around the centre until 11pm, after which they were locked onto their units. They could stay outside until it was dark. At Yarl's Wood IRC in 2013, women were not locked in their rooms but were confined to their residential units between 9pm and 9am.

1.49 Free movement and time out of cell help detainees to access services. In our surveys, only 66% of immigration detainees in prisons said that they could normally shower every day, compared with 91% of those in IRCs. Fewer detainees in prisons than those in IRCs (21% compared with 49%) said they could normally get their stored property.

Education and vocational training 1.50 Education and vocational training are the only areas where provision is better in prisons than in IRCs. In our surveys, more detainees in prisons

than in IRCs (41% compared with 23%) said that they were currently involved in education. The range of education activities is often more restricted than in prisons. It is rare to find any vocational training in IRCs. For example, at Campsfield House in 2014, where we judged activities to be good, detainees could only study ESOL, arts and crafts, and information and communication technology (ICT). At HMP Huntercombe, a foreign national prison, detainees could study mathematics, literacy, ESOL, art, ICT, business enterprise, retail, mentoring, bookkeeping and graphic design. In addition, vocational training was available in catering, PE, horticulture, painting and decorating, tiling and flooring, radio production, environmental studies, industrial cleaning and barbering. These are skills that detainees may be able to use on their return to their country of origin.

Recommendation to the Home Office and the Ministry of Justice

Immigration detainees should only be held in prison in very exceptional circumstances following risk assessment and with the authority of an immigration judge. NOMS and the Home Office should negotiate with the Legal Aid Agency to provide a telephone advice service to immigration detainees in prisons. The service should provide advice and representation comparable to that offered in IRC detention advice surgeries.

Recommendation to the Home Office There should be a strict time limit on the length of detention and caseworkers should act with diligence and expedition. The Home Office should review the risks of transferring a detainee from prison to an IRC each month. The risk assessments should be clearly documented and communicated to the detainee in writing. The memorandum of understanding between NOMS and the Home Office should be amended to make clear only high-risk detainees should be held in prisons. Low-risk immigration detainees should be released or transferred swiftly to an IRC.

Recommendation to NOMS Immigration detainees in prisons should be held in a relaxed environment and afforded as much freedom as possible. They should be able to access services and facilities comparable to those available in an IRC. Subject to public protection requirements, detainees in prisons should have access to incoming and outgoing telephone calls and to the internet. Detainees should not have to transfer to another prison to acquire these benefits.The Prison Rules should be amended to afford immigration detainees the same protections of Rule 35 of the Detention Centre Rules.

Taylor, R v Secretary of State for Justice & Ors

In September 1974 the claimant murdered a 14 year old girl by strangling her and then had sexual intercourse with her body. In December 1974 he pleaded guilty to the offence and was sentenced to life imprisonment with a minimum custodial term of 18 years. He completed that term in 1992 but has not yet been released. The claimant has now spent over 40 years in prison. He is 77 years old and has physical disabilities having had a heart attack and a stroke. His disabilities include deafness in both ears, inability to walk unaided for any distance and incontinence.

On 9 May 2014 the Parole Board directed the claimant's release under section 28 of the Crime (Sentences) Act 1997 to a hostel for adult male offenders in Wakefield known as "Ashdene" once funding was in place to meet his adult care needs in the community. The Parole Board also recommended that on his release the claimant's licence should include conditions requiring him (among other things) to reside permanently at Ashdene and not to leave Ashdene otherwise than in the company of a member of staff.

The claimant was not released to Ashdene because funding was not put in place for his care needs. Some 18 months after the Parole Board gave a direction for his release, he