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Two Police Officers Could Face Charges Over Death of Man in Custody

Steven Morris, Guardian: James Herbert, 25, died after being left naked on the floor of a police cell in Somerset, prompting an inquest jury to raise serious concerns about his treatment at the hands of officers. The Independent Police Complaints Commission has investigated and has passed on a file on the actions of two officers to the Crown Prosecution Service. It will be up to CPS lawyers to consider if either or both of the pair should be charged and brought before a court. In addition, the IPCC has also asked prosecutors to consider if the Avon and Somerset force should be charged over potential health and safety offences.

Herbert, a data-recovery engineer, was detained under the Mental Health Act after being seen acting strangely in a street in Wells, Somerset, in the summer of 2010. He was restrained by police and placed in the back of patrol van and driven almost 30 miles to Yeovil police station before being carried on a blanket into a cell. In 2013, the inquest jury that heard the case at Wells town hall concluded that Herbert died of cardiac arrest after taking a "legal high". But it also highlighted factors that may have contributed to his death including a lack of communication between police officers about the man's mental health, his drug use and previous incidents, the failure to call for medical assistance while he was being taken to the police station, and the need for closer monitoring of him.

The IPCC had already looked at the circumstances but following the inquest it launched a second inquiry into the matter. A spokesman said: "The IPCC has completed its second investigation into the circumstances of James Herbert's death and referred two Avon and Somerset police officers to the Crown Prosecution Service for potential criminal offences and has also referred Avon and Somerset constabulary for potential health and safety offences." The spokesman added: "Following the inquest in April 2013, the IPCC received complaints from Mr Herbert's family regarding Mr Herbert's treatment by police officers on the day he died; the evidence given by police officers during the course of the inquest; and the instructions given to the force's barrister during the inquest." It is understood the file sent to the CPS covers actions at the time of Herbert's death and what was said and done during his inquest.

Deborah Coles, director of the charity Inquest, which has been supporting Herbert's family since his death, said: "This was a very disturbing death of a highly vulnerable man in a mental health crisis who died in police custody. James's family have endured a long and painful wait for truth and justice. We hope the CPS will deal promptly with the evidence before them." Once again, the case focuses attention on the number of deaths of people with mental health issues in custody. In 2014/15, 17 people died in or following police custody. Eight of them were identified as having mental health concerns and 10 had been restrained. An Avon and Somerset police spokesperson said: "Since the tragic death of Mr Herbert in June 2010 the constabulary has fully cooperated with the IPCC throughout each stage of the investigations." After the inquest, Herbert's family said he had been "trussed up like a chicken" during his 45-minute journey to the police station. They said: "No person should have been subjected to that journey, let alone a mentally ill one in a highly distressed state. It was inhumane." His family said he did not have a malicious bone in his body. They said: "He will never have a chance to overcome his problems, fulfil his potential, fall in love, have children of his own, and enjoy football, the internet, parties and talk endlessly about the meaning of life. His life and his future were stolen from him." They added the "most shaming thing" was that the officers and the police force "were far more concerned about absolving themselves from criticism than from owning up to and thereby learning from their terrible errors". The case comes just a few weeks after an Avon and Somerset police officer and a community support officer were convicted of misconduct in a public office following the death of Bijan Ebrahimi, a refugee with disabilities, in Bristol. The pair failed to protect Ebrahimi, who had complained his life was under threat in the days before he was murdered by a neighbour and his body set on fire.

Erol Incedal: Media Groups Lose Appeal to Lift Reporting Restrictions on Terrorism Trial

Jennifer Marchbank, Justice Gap: Media groups have lost an appeal to lift reporting restrictions on terrorism trials held in secret. The challenge followed the secret trial of a law student, Erol Incedal who had been cleared of plotting a terrorist attack in London. Erol Incedal, 28, had been jailed for 42 months after being found with a bomb-making manual on a memory card hidden in his phone. However, the jury were unable to reach a verdict on whether he had plotted an attack on London. After a retrial, Incedal was acquitted. As reported in the Guardian – which along with other media groups brought the appeal – journalists were allowed to appear in court but were not allowed to report what had been said and could only refer to Incedal as AB. After the media objected, the court of appeal permitted his identification and ordered that the court could be heard in three parts: open court sessions, secret sessions, and intermediate sessions which the press could attend but not report.

At the end of the retrial, Sir Andrew Nicol, the case judge, decided against lifting the reporting restrictions, meaning that reasons for the verdict could not be reported. This prompted the launch of a second appeal by the media, in which the lord chief of justice, Lord Thomas, disclosed that MI5 and MI6 had been responsible for the initial demands for secrecy. Westminster's intelligence and security committee had been invited to investigate the role MI5 and MI6 had in imposing the secrecy. The court of appeal's judgment was released on Tuesday 9th February. Lord Thomas emphasised that it 'must be for the DPP, and the DPP alone' whether to 'prosecute and, if so, whether to apply to the court for part of the proceedings to be heard in camera'. The court was 'quite satisfied' from the nature of the evidence that 'a departure from the principles of open justice was strictly necessary if justice was to be done'. 'As with all cases involving allegations of terrorism, there is a strong public interest in understanding the role of the counter terrorism branch of the police and of the security and intelligence services, provided that what is made public does not materially compromise the effectiveness of their role or otherwise might damage national security. Whereas the prosecution, the executive and those representing a defendant might all have the same or different reasons, depending on the circumstances of the case, for keeping matters out of the public domain, the press performs the vital role of protecting the public interest.'

The BBC's Jeremy Britton described the 'dubious privilege' of being one of 10 select journalists to sit in on the two secret trials of Erol Incedal. 'For the journalists having to place our mobile phones in a metal case every time we entered court, and having to hand over our notebooks to be locked up in a safe at the end of every day, it was both time consuming and embarrassing'.

When is a 'Foreign Criminal' not a 'Foreign Criminal'

[A person sentenced to a term of 12 months imprisonment made up of consecutive terms is not a 'foreign criminal' within the meaning of the deportation provisions of the Immigration Rules and is not therefore subject to paragraph 398 of those Rules.]

Crown Court Breached Open Justice With Note-Taking Ban Chole Smith, Law Society

A judge who prevented a man taking notes on behalf of a 'difficult' litigant in person in an attempt to assert the Crown court's authority breached the principle of open justice, the Court of Appeal has ruled. The case was heard after the Crown court sitting in Cardiff and Newport directed that no member of the public could make notes about the proceedings and twice ruled that Terence Ewing could not take notes. Ewing was taking notes on behalf of Maurice Kirk, who was appealing a magistrates' court conviction of common assault and could not make his own notes as he could not find his glasses. Ewing was prevented from taking notes after Kirk's glasses were found. In a judicial review, the appeal court heard that although a judge may restrict note-taking in public hearings if there is a danger of interference in the proper administration of justice, there is no law or practice of preventing all those in court from making notes without permission. The director of public prosecutions said the restrictions were justified to enable the court to 'maintain its authority in what it anticipated, entirely correctly, would be a testing appeal'. The primary reasons the court gave for not allowing notes was that after Kirk's glasses were found, Ewing had no good reason why he needed to make notes, and that there was a fear that 'prejudicial material' might leave court with an 'inexperienced reporter'.

In his judgment in the Court of Appeal, Lord Justice Burnett said that contrary to the position the court took in this case, the default position should allow those attending public hearings to take notes as a feature of 'open court justice'. He also rejected the notion that note-taking would interfere with or pose any threat to the administration of justice, as he noted that there was no concern during the proceedings about reporting by the media or about Kirk taking his own notes. Burnett also rejected the DPP's argument that the court had a good reason to restrict note-taking. However he observed that: 'The transcripts provide strong support for the proposition that [Kirk] was manipulating the process and being deliberately difficult and contrary.' According to the judgment, pursuing and defending court cases was a 'dominant feature' in Kirk's life, and his habit was to take as long as possible, raise endless technical objections and seek to use one set of proceedings to assist him in another. Kirk disputes this analysis. But Burnett said: 'It comes to little more than a suggestion that an inroad into the principle of open justice was necessary to show who was boss. It is hardly surprising that such a reason is absent from the transcript and the letters written on behalf of court. It would be a bad one.' He added: 'In difficult circumstances, and misapprehending the correct starting point when a member of the public wishes to make notes, the court denied the claimant the right to make notes from proceedings in open court in breach of the common law principle of open justice.'

Early Day Motion 1087: UK Foreign Policy On The Death Penalty

That this House reiterates its opposition to the use of the death penalty under any circumstances; notes with concern the Government's recent decision to abandon its death penalty strategy at a time when executions in countries such as Pakistan and Saudi Arabia have hit record numbers; further notes with deep concern the recent report by the Reprieve campaign which states that Saudi Arabia executed 157 people in 2015 and killed 47 prisoners in just one day on 2 January 2016; notes with concern Reprieve's statement that Pakistan executed 325 people since lifting a moratorium on the death penalty in 2014, and that Iran executed nearly 1,000 people in 2015 where at least 600 of those hanged were convicted of drugs offences, understood to be the highest total for 16 years; and calls on the Government to continue to oppose the use of the death penalty in all circumstances, to reinstate its death penalty strategy, to make it a formal objective of UK foreign policy to seek the global abolition of capital punishment, and to make high level and specific diplomatic representations in relation to all death sentences that violate the particular principles of international law.

R v Taylor (Appellant) – UKSC 2014/0157

This case considers whether it is an offence contrary to s.12A(1) and 2(b) of the Theft Act 1968 committed when, following the basic offence and before the recovery of the vehicle, the defendant drove the vehicle and, without fault in the manner of his driving, the vehicle was involved in an accident which caused injury to a person. On 23 June 2012, the appellant borrowed a Ford Transit Tipper truck that belonged to his friend's employer. He did not have the employer's permission to drive the truck. While driving down a narrow country lane, the truck collided with a scooter, killing the scooter driver. Both vehicles were estimated to have been travelling at approximately 18 mph at the time of the collision. Although the appellant was found to be over the drink drive limit, there was no evidence that the manner in which the truck was driven contributed to the collision. The appellant was charged with (among other offences) aggravated vehicle taking contrary to s.12A of the Theft Act 1968 despite the Crown's concession that there was no evidence of fault. He argues that for an offence under s.12A to be made out, there must be an element of fault in the manner of driving the vehicle which more than minimally contributed to the accident that occurred. The Supreme Court unanimously allows the appeal, holding that the driving must have been at fault for a person to be convicted of aggravated vehicle taking under s12A of the Theft Act 1968.

Scottish Prisons: Jailing Then Failing the Vulnerable

Dominic Mulgrew: FRFI 249: The total Scottish prison population as of 8 January 2016 was 7,895. This is made up of both sentenced and remanded prisoners and includes people released to serve the end part of their sentence on home detention curfew electronic tagging. Current Scottish government statistics predict this population will remain fairly static between now and 2022-23. Yet more lives, individuals and families, will be torn apart. In July 2015 the Scotland Institute published a report Mental Health and Scotland's prison population. Up to 2011 Scotland had the highest incarceration rate in the European Union (150 per 100,000 members of the population) despite recorded crime figures steadily falling since the early 1990s (p8). It stated that 'despite the gains' from the SNP government's Criminal Justice and Licensing (Scotland) Act 2010 which brought to an end the use of short-term prison sentences, replaced by non-custodial community payback orders, 'Scotland continues to incarcerate the most vulnerable and marginalised in our society' (p9). It reported that as many as 80% of prisoners, especially women, suffered from poor mental health but were not receiving the services and treatment they required. Since 2000 the female prison population in Scotland has risen by 120% despite conviction rates remaining stable causing trauma to mothers and their children. The 2010 Act transferred care for prisoners' mental and physical health from the Scottish Prison Service (SPS) to the NHS and yet the report notes that 'none of the NHS Board annual reports make even passing mention of the challenge of the provision of mental health services in prison' (p10). As the report describes, many prisoners suffering poor mental health and in need of treatment are instead subjected to segregation and prison officer brutality 'control' (p13). Mental health services in the community, which ex-prisoners were able to access, are also being cut. In November 2015 Scotland's chief of prisons Colin McConnell himself stated that Scotland still had an 'obsession' with imprisoning the most vulnerable in society which cast a 'dark shadow' across the nation breeding inequality (6 November 2015, Daily Record). Pressure needs to be put on the SNP government to put an end to the brutalisation of Scottish prisoners and to ensure there is proper and effective NHS treatment for all prisoners and those leaving prison. Progressive reforms must be fought for by uniting together, inside and outside, but they will not and cannot get rid of the root cause of this injustice, inequality and brutality - that requires an organised smashing of class society and its prison walls! Effective NHS treatment for all prisoners now! End SPS brutality!

Examination of Child Witnesses Not in Violation of Article 6

Mark William Patrick MacLennan v Her Majesty's Advocate, [2015] HCJAC 128: The High Court has refused an appeal under Article 6 on the lack of effective cross-examination of child witness, but has provided interesting commentary on how such investigations could be better handled in future to meet Strasbourg standards.

The Facts - The original charge concerned reports made against the appellant, the manager at a nursery in Fort William, from children alleging various forms of sexual contact. After initial allegations, joint investigation interviews (JIIs) were conducted between May and July 2013 with various children from the nursery. The value of some of the interviews was questioned by the High Court, with one described as "leading in the extreme" (paragraph 5), yet none were challenged by the defendant when presented as evidence during his trial. The case was not reported to the Crown Office until 18 February 2014, and further commissions to collect evidence from the child witnesses were not conducted until the 1st and 2nd July 2014, over a year after the children's first reports. These subsequent commissions took "an interesting, if predictable, course" (paragraph 10): children forgot they had attended nursery, had no recollection of the appellant, and were unable to remember or discuss the alleged incident.

A number of charges were found against the applicant, who subsequently appealed on the grounds that his right under Article 6(3)(d) was violated due to the delay in initiating the commission process. As the Crown had chosen not to refer to the initial JIIs at the Commission, the defence had been faced with the prospect of reminding the children of what they had originally said, negating the possibility of conducting any meaningful cross-examination. The respondent argued that there were adequate safeguards in place, including judicial oversight of the commissions, appropriate directions to the jury, and the opportunity to cross-examine during the commission. The trial judge had directed the jury to exercise extreme caution with the evidence of the child witnesses at the JIIs and on commission, particularly emphasising the length of time between the JIIs and the commissions.

The Court's Decision: The appeal was refused. While the starting point for the High Court was the principle that all evidence must normally be produced "in the presence of the accused at a public hearing with a view to adversarial argument", (Saidi v France, paragraph 43; SN v Sweden, paragraph 44), this did not provide the accused with an unlimited right. The European Court had previously recognised the need for special features of criminal proceedings involving sexual offences, particularly in the case of child complainers, finding that the accused's Article 6 rights had to be balanced against the Article 8 rights of the complainer, and it was primarily for domestic courts to ensure this balance was achieved (SN v Sweden, paragraph 47). In the immediate case, the appellant had full opportunity to cross-examine and challenge the reliability of the children's accounts at the JIIs, having regard both to the content of the JIIs themselves and the answers obtained at commission. The fact that it appeared that the children could not immediately recall the alleged offences did not carry with it any implication that the cross-examination was not effective: "on the contrary, the appellant's counsel must have been reasonably content with the responses he obtained". There had thus been no violation of the appellant's right under Article 6.

Further guidance: The court went on to give two suggestions (and one criticism) for the future. The first, operable under the existing commission procedure, would permit the taking of evidence of young children at any time after the appearance on petition, avoiding unnecessary delay between the original complaint and the subsequent opportunities to cross-examine the witness. Such a provision would require introduction of a "relatively simple provision" by the Government, but would help to avoid a repeat of the questionable evidence produced in the immediate case. The second suggestion would be to move away from the traditional approach towards one more similar to the Scandinavian model, facilitating defence involvement "very soon after, or even at, the JII", if an accused so wished. The move would "herald an end to seeing young children being questioned in a court or commission setting with the legal formalities of examination in chief and cross", thus better protecting the Article 8 rights of the complainer. This would, however, require "far greater controls and training" to ensure continued fairness under Article 6. As a final point, the court criticised the use of a psychologist's expert opinion to establish the fairness of the JIIs (paragraph 6), "given the extensive material now available to lawyers on what constitutes a fair interview of a young child". Decisions on such matters were to be made by lawyers and, ultimately, the judge.

The Rule of Law and Parliament: Never the Twain Shall Meet?

Brian Chang, UK Human Rights Blog: In "The Ballad of East and West", Rudyard Kipling *memorably wrote 'East is East, and West is West, and never the twain shall meet Till Earth and Sky stand presently at God's great Judgment Seat.'* Is this an accurate description of the rule of law and Parliament? Is the rule of law a matter best left to lawyers, judges and courts, or do politicians and Parliament also have a role to play in upholding the rule of law, by holding the Government to account over rule of law violations, and ensuring that proposed legislation do not offend the principles of the rule of law? A new Bingham Centre report published makes a valuable contribution as the first ever, but hopefully not the last, empirical study on the rule of law in Parliament. By examining references to the rule of law over the 2013-14 and 2014-15 Parliamentary sessions in Parliamentary debates, parliamentary questions and written statements, using both quantitative and qualitative analysis, the report aims to improve our understanding of how the rule of law has been used in Parliament. The most notable finding of the study was that Parliament tends to focus on the rule of law in relation to foreign affairs rather than domestic policy. Debates on Russia, the Commonwealth (particularly the rule of law situation in Sri Lanka), Ukraine, Iraq, Burma, the Middle East, Hong Kong and China were amongst the issues that generated the greatest number of references to the rule of law during the period surveyed. Of the 11 MPs who referred to the rule of law the most times during the Parliamentary sessions, 8 of them referred to it mainly or exclusively in the foreign affairs context, though the corresponding number for peers in the House of Lords was 4 out of 11. These MPs and peers tended to have Executive or shadow cabinet portfolios covering foreign affairs (e.g. David Lidington MP, who is Minister of State for the Foreign & Commonwealth Office, was the MP who referenced the rule of law the most times during the period surveyed), and they typically referenced the rule of law in their answers to parliamentary questions on foreign affairs or international development. These findings give rise to the conclusion that rule of law based Parliamentary scrutiny of the executive was overwhelmingly focused on foreign affairs and not rule of law issues in the UK.

Turning to the rule of law in the context of domestic UK issues, two findings stand out. The first finding is that the most in-depth discussion and analysis of the rule of law was focused on "legal" areas such as the justice system (especially judicial review and legal aid, but not crime), civil liberties in the national security context and human rights, but not on "non-legal areas". While there were references to the rule of law in debates concerning British values and crime, these references were typically made in passing, without detailed consideration of the nature, content or application of rule of law principles. Parliamentarians frequently cited respect for the rule of law as part of a constellation of British values, including tolerance, freedom and democracy, but made few attempts to identify the implications of the rule of law and apply them when scrutinizing legislation or holding the executive to account over domestic issues.

The second finding is that in-depth discussion and analysis of the rule of law tended to be dominated by a small group of Parliamentarians, a large majority of whom were lawyers and former judges. The Parliamentarians who discussed the rule of law's implication for the UK justice system most often during the period surveyed were, in descending order: Lord Faulks, Lord Pannick, Lord Cormack, Lord Beecham and Andy Slaughter MP. Of these five, only Lord Cormack did not have a legal background. The report cites Baroness Butler-Sloss noting during the House of Lords debate on "Legal Systems: Rule of Law" that ' this, with some notable exceptions, is very much a lawyers' meeting place, if not a picnic. I am afraid that, as yet 'another lawyer, I am contributing to that.

These findings collectively highlight gaps in the participation of Parliamentarians without a legal background in detailed discussion and analysis of the rule of law, and in the detailed consideration of rule of law principles in "non-legal" areas. The findings suggest that there is room for greater parliamentary engagement with the concept of the rule of law. The authors of the report argue that such increased engagement is desirable because of the importance of the rule of law to Government and individuals' rights and interests, and its relevance to all areas of Government decision-making including welfare and taxation. Accordingly, Parliamentarians should have rule of law considerations in mind when they hold the Government to account on domestic issues and when they debate all legislation, and not only legislation on "legal" areas.

The report also provides a timely reminder that the House of Lords has been an important guardian of the rule of law since the removal of most of its hereditary peers in 1999, and provides one of the most detailed legislative histories of the judicial review provisions in Part 4 of the Criminal Justice and Courts Act 2015 to date. It finds that the high water mark of Parliament's engagement of the rule of law in the period surveyed was in debates on the Criminal Justice and Courts Bill, for which there was the most rule of law discussion of any issue in the two Parliamentary sessions surveyed (and which the UK Human Rights Blog covered with 13 posts!). While the provisions of the Bill which sought to curb perceived abuse of judicial review were opposed on rule of law grounds in both Houses, it was only successfully amended in the House of Lords, following lengthy debates in which the rule of law was mentioned a total of 75 times, and was not merely cited as a rhetorical device, but as a source of obligations on the government to act lawfully, while allowing individuals to challenge bad decision-making where the government fails to do so.

By contrast, during "ping pong", all of the House of Lords amendments intended to preserve access to judicial review were rejected by the House of Commons after an hour long debate in which the rule of law was mentioned 4 times. It was only because the House of Lords insisted on the amendments preserving judicial discretion over access to judicial review and on the provision of financial information, in a three hour debate in which the rule of law was mentioned 24 times, raising the spectre of a Lords "double insistence" causing the entire Bill to fall in the final parliamentary session of the Coalition Government, that Lord Faulks then sought and obtained government amendments in the House of Commons, preserving judicial discretion to grant judicial review in cases involving "exceptional public interest", and not to request the identity of those contributing an amount below a threshold, thereby enabling the Bill to be passed into law. This episode highlights how Parliamentarians can be sympathetic to persuasive arguments grounded in the rule of law, and in extremis, mobilised to act in defiance of their party position if they believe the rule of law is at stake.

In June 2015 a new All Party Parliamentary Group (APPG) on the Rule of Law was established, which is a cross-party grouping of members and peers with the aim at promoting parliamentary and public discussion of the rule of law as a practical concept. The APPG on the Rule of Law has held several meetings on topical issues such as non-violent extremism, the Immigration Bill 2015/16

and the removal of the reference to international law in the Ministerial Code, seeking to introduce the rule of law dimension to Parliamentary discussion of these topics. These meetings have enabled a wide array of expert speakers to brief Parliamentarians on the rule of law implications of proposed legislation and policy changes, creating a space for in-depth rule of law discussion and analysis of a range of issues, and the meeting summaries are publicly available on the Bingham Centre's website (link here) (the Centre provides the Secretariat for the APPG). The APPG on the Rule of Law may help to strengthen parliamentary engagement with the rule of law, but the broader vision of "mainstreaming" the rule of law in Parliament will require sustained efforts by other APPGs, Parliamentary Committees, Parliamentary legal advisers, Government draftspersons and policy-makers, civil society actors, and of course, MPs and peers themselves. To conclude by returning to the question posed in the title (never the twain shall meet?), Kipling's poem is often misquoted, as it is incomplete without the third and fourth lines of the quatrain: But there is neither East nor West, Border, nor Breed. When two strong men stand face to face, though they come from the ends of the earth. Like the personifications of East and West in Kipling's poem, the report shows the Rule of Law and Parliament have met, and they both benefit from mutual respect.

Criminal Cases Review Commission (Information) Bill House of Commons: 5 Feb 2016

If enacted, the Bill would allow the extension of powers for the Criminal Cases Review Commission to obtain information of evidence, testimony, documents and other material that would assist in the processing of appeals and review cases where a miscarriage of justice is believed to have taken place. In essence, it would allow the CCRC to obtain such information from a person other than one serving in a public body, to which it is currently restricted. That new measure would apply to private sector organisations, persons employed by or serving in private companies, and private individuals. If passed it will strengthen the CCRC's ability to overturn wrongful convictions and miscarriages of justice, and improve further our system of law and order, which is rightly the envy of the world.

100 Babies Spent Time in Prison With Their Mothers in 2015

Applications and Admissions to Prison Mother and Baby Units: Prison Rule 12(2) entitles the Secretary of State to permit a female offender to have her baby in prison with her subject to any conditions he sees fit. In line with this, Prison Service Instruction (PSI 49/2014) requires Governors/ Directors to ensure that procedures are in place to ask women on reception or at the earliest opportunity whether they are pregnant or have children under the age of 18 months. The National Offender Management Service in certain circumstances allows mothers to care for their babies in Mother and Baby Units (MBUs) in prison.

A MBU is a designated living accommodation within a women's prison, which enables mothers, where appropriate, to have their children with them. MBUs promote the care of babies and young children by their mother. Mothers are enabled and encouraged to have their children with them in prison during the important period of bonding and arrangements are in place to assess and admit suitable mothers. There are currently six MBUs across the women's prison estate in England and Wales which provide an overall total capacity of 64 places for mothers. However, there are a total of 70 places for babies to allow for twins.

Women who are pregnant or who have children under the age of 18 months can apply for a place on a MBU. All applications for places on MBUs are referred to an Admissions Board, which makes a recommendation to the Governor/Director of a prison with a MBU on whether a child and moth-

er should be admitted to such a unit. The Board must be multi-disciplinary and include an Independent Chair, MBU Manager, Community Offender Manager, and have input from Local Authority Children's Services. The best interests of the child are the primary consideration, alongside the safety and welfare of other mothers and babies on the unit. The Chair must communicate the recommendation within 24 hours of the conclusion of the Board, though it is the responsibility of the Governor/Director of the prison to reach the final decision. An applicant has the right to appeal a decision not to allocate a place on an MBU, with appeals determined by the Head of the Women's Team.

Findings suggest that during the first 18 months of life the pressure of maturation tends to protect babies from low stimulation environments and development progresses normally. However, from the age of 18 months babies may be more sensitive to the stimulation of the environment they reside in. It is for this reason that MBUs have an 18 month age limit and separations should be planned to take place prior to reaching the age of 18 months. A separation plan must be agreed for each mother and child when they arrive on the unit, setting out the care arrangements that will be initiated should the need for separation arise. This plan should be revisited whenever the woman's domestic circumstances change. Separation Boards, also chaired by an Independent Chair, are convened to consider the separation plan and to ensure that decisions about the separation process are carefully considered, appropriate and defensible.

The 18 month age limit has some flexibility in exceptional circumstances, however any final decision to admit a child after the age of 18 months to a MBU or a proposal to separate a child from their mother after they have attained 18 months must be taken by the Head of Women's Team and will be decided on a case by case basis. • There were 173 applications to a MBU in 2015 which was down 15% from 2014. • Of those applications that resulted in a recommendation in 2015, 65% were approved and 35% were refused. This compares to 72% approved and 28% refused in 2014. • In 2015, 69 women were received into a MBU, a decrease of 9 compared to 2014. 61 babies were admitted into a MBU during 2015, a decrease of 4 compared to the previous year. • At the end of 2015, there were 37 mothers residing in a MBU in England and Wales and 39 babies. This is a similar level to 2014. • During 2015, 100 babies resided in a MBU, compared with 96 during 2014. Over the same period, 107 women resided in a MBU during 2015 and 111 during 2014.

Criminals With UK Children Cannot Be Automatically Deported

Alan Travis, Guardian: The EU's top court has told the home secretary, Theresa May, she cannot deport a Moroccan mother with a British-born son simply because she has a criminal record. The advocate general of the European court of justice has told May that it will be contrary to EU law if she automatically expels or refuses a residence permit to a non-EU national with a criminal record who is a parent of a child who is an EU citizen. The preliminary opinion of the court's advocate general, Maciej Szpunar, however, adds that while, in principle, deportation in such cases was contrary to EU law, he agreed with UK representations that there should be exceptional circumstances when a convicted criminal could still be deported depending on the seriousness of the offences involved. The intervention by the EU's most senior court is likely to be taken by Eurosceptic campaigners as evidence of unwarranted interference by Europe in the powers of the British home secretary to deport convicted foreign criminals even if it does allow her to press ahead with the Moroccan woman's deportation. The advocate general's opinion follows a request from British judges on the immigration and asylum tribunal in London for a EU court of justice ruling on the effect a criminal record may have on the recognition of a right of residence under EU law. The EU legal opinion applies to two deportation cases. The first case involves a Moroccan woman, known for legal reasons as CS, who became liable for deportation after serving a 12-month prison sentence. In August 2012 she was informed that she was liable to be deported. She has a four-year-old son born in 2011 as a result of her marriage to a British citizen, but following her divorce now has sole care and custody of the child and has told the British courts there is no one else to care for her son. The second case involes a Colombian man, Rendon Marin, who has two Spanish-born children and who faces expulsion from Spain after being given a nine-month prison sentence suspended for two years.

In both cases the European court says that the rights of the children involved as EU citizens must take priority. "In the cases under consideration the children could be obliged to go with their respective parents if the latter are expelled, given that they have been entrusted to the sole care of those parents," says the advocate general's opinion. "The children would then have to leave the territory of the EU, which would however frustrate the actual enjoyment of the substance of the rights conferred on them by their status as citizens of the EU." The EU court did however agree that there should be a "public policy or public security" exemption as invoked in the case of the Moroccan mother to justify her deportation. "CS's serious criminal offences represent an obvious threat to the preservation of that member state's social cohesion and the values of its society, which is a legitimate interest. The advocate general considers that expulsion, is in principle, contrary to EU law but that, in exceptional circumstances, such a measure may be adopted," says an EU court of justice press release on the case.

IPCC Investigating Death of Lewis Johnson Following Police Pursuit

Lewis, 18, was travelling on a white Vespa scooter which was in collision with a van in Clapton Common, Hackney, shortly before midday Tuesday 9 Feb 2016, he died at the scene. The other man travelling on the scooter, aged 19, suffered serious injuries in the collision and was taken to an east London hospital for treatment. His injuries are described as non life-threatening. The Metropolitan Police Service (MPS) has confirmed that officers pursued the scooter prior to the collision after it failed to stop for police. The MPS logs indicate officers were called following a number of reported thefts involving suspects on a scooter. The IPCC has begun an independent investigation into the circumstances surrounding the collision.

Authorities Have a 'Positive Obligation' to Prevent Suicides in Prison

In Chamber judgment case of Isenc v. France (app no. 58828/13) the ECtHR held, unanimously, that there had been: a violation of Article 2 (right to life) of the European Convention on Human Rights. The case concerned the applicant's son's suicide 12 days after he was admitted to prison. The Court found in particular that a medical check-up of the applicant's son, M., when he was admitted was a minimum precautionary measure. The Government submitted that M. had had a medical consultation but did not furnish any document to corroborate that submission. In the absence of any evidence of an appointment with the medical service, the Court found that the authorities had failed to comply with their positive obligation to protect the applicant's son's right to life. It did not take into account the fact that the medical service responsible for prison inmates – the SMPR among others – did not come under the authority of the prison administration. The Court had already observed that collaboration between the supervising and the medical staff fell within the remit of the domestic authorities. The Court found that the arrangements for collaboration between the prison and the medical services in supervising inmates and preventing suicides, although provided for in the domestic law, had failed to operate in the present case. The Court held that France was to pay

the applicant 20,000 euros (EUR) non-pecuniary damage and EUR 6,588 costs and expenses.

Birmingham Pub Bombings: Police Told to Release any Evidence of Forewarning

Any evidence the West Midlands police holds about advance warnings of the 1974 Birmingham pub bombings, IRA informants or delays in evacuating the bars must be made public, the city's senior coroner has ordered. In a detailed series of demands to the force, Louise Hunt has called for access to more information about the atrocity – in which 21 people were killed – to help her decide whether or not to formally resume the inquest into their deaths. The list of required documents, statements and supporting evidence was read out at the end of a hearing in Solihull on an application by relatives of the victims who want the inquest, formally adjourned in 1975, to be resumed. Giving the West Midlands police until 4 March to respond, Hunt asked for information about any informant in the IRA unit, advance warning of the bombs, any delays in evacuating the bars, whether "reasonable steps" were taken on the night, whether records had been falsified and for a fill list of evidence that has disappeared. She also asked the force to make a public statement about what it discovers.

UK Police Forces 'Still Abusing Stop and Search Powers' Vikram Dodd, Guardian

Most of Britain's police forces are still failing to obey rules to prevent abuse of their stop and search powers, according to the police regulator, raising the prospect that the government will legislate to force them to do so. A report by Her Majesty's Inspectorate of Constabulary found that one in seven stops may be unlawful, despite promises by police chiefs to reform. The home secretary reacted by suspending the 13 worst offending forces from a "best use of stop and search scheme" with immediate effect. The forces will face a fresh emergency inspection in three months' time. Another 19 are failing to meet some of the rules and have been told to improve or also face public shaming. Theresa May has threatened new laws if the police do not reform themselves, and last night her officials said the police were now in the last chance saloon. The lead inspector on the HMIC report, Steve Otter, said the failings were "inexcusable", undermined police legitimacy, and may even undermine public order. Otter, a former senior Metropolitan police officer who later served as the chief constable of Devon and Cornwall, said: "Every single major report into disorder in this country since 1970 places stop and search as one of, if not the most important contributing factor, and those lessons need to be learned."

Liberty's Safe and Sound 8 Point Plan for a Secure and Private Britain

Surveillance powers can play an important role in fighting serious crime. But the current framework fails to provide sufficient safeguards to ensure it is conducted in a necessary, proportionate and accountable way – online and offline. The Government's Draft Investigatory Powers Bill is a once in a generation opportunity to shape our laws for the better – however current proposals will make us less safe and less free. And it's not just us saying that. Voices from across the political spectrum have joined internet companies, tech experts and civil liberty campaigners to call for a redraft of the Bill. That's why we need you to add your voice to Liberty's Safe and Sound campaign for a secure and private Britain. The authorities do a vital job but abuses can and have happened. The Metropolitan police accessed journalists' phone records, spied on a grieving Baroness Lawrence and her family and infiltrated social and environmental justice groups to the extent that women were tricked into serious relationships – one even having a child with an undercover officer. GCHQ spied on a torture victim and his lawyers challenging MI6 complicity in his kidnap to Gaddafi's Libya and unlawfully intercepted the communications of human rights organisations including Amnesty International. We expect the State to obtain a warrant before entering our homes, never mind searching them and taking away our belongings. Why

should it be any different when it comes to our communications? As ever greater amounts of our lives are stored, shared and sent online, a detailed and intimate picture of you can be pieced together – revealing much more than any search through your bedside drawer. Don't we all deserve some basic protections? These crime-fighting tools can be used in a way that both keeps us safe and respects our privacy:

1. Judicial warrants - All surveillance requests must be authorised by a judge. All surveillance requests (including interception, acquisition of communications data, use of Covert Human Intelligence Sources etc) must be subject to prior authorisation by a judge and a judge alone. The Home Secretary's authorisation of surveillance powers puts them at risk of politicisation. There is growing consensus on the importance of prior judicial warrantry for intrusive practices which includes former heads of MI5, GCHQ, the former Met police director of intelligence, the Government's reviewer of terror legislation as well as parliamentarians across the political spectrum. A huge number of democratic countries require judicial warrants for surveillance – including all the other countries involved in the Five Eyes Alliance; USA, Australia, Canada and New Zealand.

2. Respect our data - No new blanket powers forcing communications companies to store more – and more revealing types – of our data. David Anderson has warned that the case for a host of bulk surveillance powers has not been made. The USA and other European and Commonwealth countries do not compel service providers to retain their customers' weblogs for inspection by law enforcement and Australia recently passed legislation strictly prohibiting it. Going down this road would put us in the company of Russia which requires service providers to routinely store the weblogs of all their customers. The track record of internet companies to keep that data safe doesn't fill us with confidence (see the recent hacking of TalkTalk - four people so far have been arrested including some under the age of 16).

3. Targeted surveillance - for a reason - Surveillance should only be conducted for a number of tightly defined reasons i.e investigating serious crime and preventing loss of life. Strong legal protection should be provided for privileged and confidential material. Surveillance should be conducted for a narrow range of tightly defined purposes i.e. investigation of serious crime and other legitimate objectives such as preventing risk to life - instead of the vague and non-crime related purposes currently permitted for surveillance powers (as recognised in the High Court judgment in the Davis and Watson challenge to DRIPA). A targeted approach to surveillance - requests and warrants must target individuals on the basis of suspicion in criminal activity. Liberty is calling for a targeted, as opposed to mass or 'thematic', approach to surveillance. As revealed by Edward Snowden, the Agencies have claimed powers to intercept and hack entire telecommunications systems meaning billions of innocent communications are routinely intercepted and processed. The Draft Bill seeks to put these powers on the statute book and expand them - new provisions allow the Agencies to acquire 'bulk personal datasets' and communications on millions of innocent people. Retention of communications data and surveillance warrants should instead target individuals on the basis of suspicion of involvement in serious crime. Liberty is currently challenging the present approach of mass, speculative, suspicion-less interception of "external warrants" at the Court of Human Rights. Strong legal protection for privileged and confidential material. Legislative safeguards providing additional protection for legally privileged communications, journalistic sources and parliamentarians' correspondence should be enshrined in primary legislation.

4. Transparency and Redress - All surveillance powers should be publicly disclosed and safeguards set out in legislation. Improved redress and increased transparency for those who have been under unlawful surveillance or are no longer under suspicion. Improved redress

mechanisms for those subject to unlawful surveillance - the IPT should be overhauled and made more transparent with an ability to make declarations of incompatibility under the Human Rights Act. Once a criminal investigation involving surveillance has been completed, or once a person is no longer under any suspicion, he or she should be notified of the relevant surveillance unless there is an objectively justifiable reason for maintaining secrecy.

5. Use of intercept evidence in court - Intercepted communications should be admissible in criminal trials. The bar on the admissibility of intercept evidence, if properly obtained via a judicial warrant, in criminal proceedings should be lifted. Why is this vital evidence not used to bring perpetrators to justice?

6. Fair and open international data sharing laws - The arrangements for intelligence sharing of surveillance data between the UK and other countries must be set out in law and available to the public. Transparent and proportionate arrangements for the sharing of surveillance data between intelligence agencies should be agreed between the UK and foreign States, made publicly available and incorporated into law. Mutual Legal Assistance Treaties (MLAT) – law enforcement tools governing the exchange of information between countries – should be improved and replace attempts to place extraterritorial obligations on foreign tech firms (as proposed in the Draft Investigatory Powers Bill).

7. Protect our encryption standards - Safeguard our country's security by protecting - not undermining - encryption standards. Encryption is vital to the security of our online communications. If we weaken standards to allow Government to get its hands on more of our personal communications, that information is vulnerable to use and abuse by the bad guys too. Do we really want our iMessage communications to be less secure than those of people using the service in other countries?

8. Recognition of the unique threat mass hacking poses to our security - Hacking is a grave privacy intrusion - much more intrusive than "traditional" forms of state surveillance, including interception, and its capacity to undermine device, network and internet security can't be overstated. It carries unlimited and untested potential for Government to act against the security and economic interests of its own citizens, whether consciously or otherwise. The Government's draft legislation would allow mass hacking of devices, affecting potentially millions of innocent users' devices, undermining the safety of us all. Hacking should only be used in extremis as a last resort, and warrants should always specify named suspects or premises.

Officer Who Slapped Cuffed Woman Across Face, Punished With Slap on the Wrist

Belfast Telegraph: The woman was in the back of a PSNI Land Rover after being arrested for assaulting police when she was struck by the officer. The officer denied hitting the woman - but the Police Ombudsman for Northern Ireland said there was "sufficient evidence" to back up her claim. A file was sent by the independent policing watchdog to the Public Prosecution Service about the incident, but a decision was taken not to prosecute the officer.

The woman was arrested in Dunmurry in August 2013. She told an Ombudsman investigator she was sitting on a bench in the back of the Land Rover, handcuffed to the rear and with her feet on the bench opposite, when the officer swiped her feet off the bench and slapped her once across the cheek. The woman, who accepted that she was drunk at the time, admitted that she then tried to hit the officer back. Her sister and a member of the public told the investigator that while the rear door of the Land Rover had been closed over and they could not see what happened, they both heard the woman shout out about being hit. The driver of the Land Rover said he had not seen the incident, but remembered the officer stating that he had been headbutted and kicked by the woman, and the woman saying she had been struck.

Another officer said he was walking towards the Land Rover and could hear a female screaming but could not recall what she was saying. He said he opened the door of the vehicle to see the woman trying to headbutt his colleague. Security camera footage from the police station where the woman was taken following the incident was retrieved by the Ombudsman's office. According to the Ombudsman report, the woman can be heard on the footage making numerous references to being slapped by the officer. She also told her solicitor: "He hit me and I hit him back." The woman later told a police doctor that she had been slapped across the face. When interviewed, the officer denied having slapped the woman. He said that he had only pushed her by the shoulder back onto her seat after she had first attacked him. However, the PO investigator concluded that there was sufficient evidence, on the balance of probabilities, to support the woman's allegation that she had been slapped by the officer. The PSNI has since disciplined the officer involved. he level of discipline has not been revealed.

Permission to Appeal Decision in Iraqi Civilian litigation case

The Supreme Court has granted an application for permission to appeal the Court of Appeal's December 2015 decision in this matter. The case relates to the 'Iraqi Civilian litigation' in which several hundred Iraqi civilians seek damages for allegedly unlawful detention and ill-treatment by British armed forces. The issue in this case is whether a provision of Iraqi law which provides for the immunity of foreign military personnel can be disapplied by the English Courts in the context of a claim governed by Iraqi law (on the basis that it is a procedural rule of local law). Iraqi law provides for a three-year limitation period, which can be suspended if there is an impediment to the claimant that prevents them from pursuing their case. The Claimants argue that a provision of Iraqi law which provides for the immunity of foreign military personnel constituted such an impediment and therefore the limitation period was delayed. The MoD argue that the immunity provisions were a procedural rule of local law and must therefore be disapplied by the English Courts. This would have the effect that the limitation period was not suspended and therefore the Claimants were time-barred from pursuing their claims. The High Court found in favour of the Claimants on this point. This ruling was overturned by the Court of Appeal. The appeal will likely be listed to be heard at the Supreme Court towards the end of April 2016.

Mexico Prison Riot Leaves 49 Dead

A battle between rival groups at a prison near Monterrey in northern Mexico has left 49 inmates dead. Nuevo Leon state Governor Jaime Rodriguez said 12 other people were injured in Topo Chico jail after prisoners fought with "sharp weapons, bats and sticks". A fire was also started in a storage room. Officials say the situation is under control and no inmates escaped. Crowds of relatives outside the jail blocked roads, demanding information. Some threw sticks and rocks and tried to pull the prison gate open as riot police blocked their way. "They haven't told us anything," said the mother of one inmate, who gave her name only as Ernestina. "They said that until there is order they won't let us in. Everything is in disorder, and nobody is telling us anything." The incident comes just days before Pope Francis is due to visit a prison in the northern city of Ciudad Juarez, an area notorious for violence between drugs cartels. Mr Rodriguez had earlier put the number of inmates killed at 52 before revising the figure down. The reason was not made clear, but several inmates are registered more than once at the prison, with different names. Forty of the 49 prisoners have already been identified.

Mr Rodriguez said the fight had started around midnight and lasted 30 to 40 minutes, during which time the two groups of inmates set fire to a storage area. He said one faction was led by a mem-

ber of the notorious Zetas drug cartel, Juan Pedro Zaldivar Farias, also known as Z-27. Mr Rodriguez said the other group was led by Jorge Ivan Hernandez Cantu, whom Mexican media identified as a member of the rival Gulf cartel. The faction leaders are not among the 40 bodies identified so far. Mr Rodriguez said all those killed were male inmates and that five of the injured were in a serious condition. "We are experiencing a tragedy stemming from the difficult situation that they are living through at penitentiary facilities," Mr Rodriguez told a news conference. Speaking later, he said security was being beefed up at other prisons and some inmates had been transferred out of Topo Chico. He said that although rioters had not had guns, one inmate appeared to have been shot dead by a guard who was protecting a group of women inmates. A report by the National Human Rights Commission in 2014 said the Topo Chico prison housed about 4,600 inmates but was only designed to hold 3,635.

Harassment of Families Continue in HMP Maghaberry Republican Prisoners, HMP Maghaberry

In October 2015 Republican Prisoners highlighted the barring of the son and daughter of a Republican Prisoner from visiting their father for 3 months. This was the result of an incident which was contrived by a female member of jail staff who is repeatedly belligerent toward the families of Republican Prisoners. On this particular occasion, after a request for the return of a visitors pass containing personal detail which led to a brief argument, this individual hit an emergency alarm. This resulted in the Riot Squad and a Governor arriving at the scene. They refused to identify themselves and despite repeated requests they kept two children locked in the area while the situation was ongoing; causing serious distress. Calls by both Republican Prisoners and families to investigate this matter effectively have been ignored.

After the 3 month ban was lifted and the visits were reinstated the Prisoner's son availed of one visit. However, only days later the son has been banned once again with no reason having been provided. It is no coincidence that this barring comes amidst increasing attempts by notorious Security Governor, Brian Armour, to pursue a campaign of harassment against Republican Prisoners. It was Brian Armour who previously gloated that it was he who was passing the information that the son and daughter were to be barred. It was also he that prevented the playing of music at the wedding of a Republican Prisoner in November last year and who has repeatedly interfered with personal mail. Not content with a campaign of repression against Republican Prisoners on the wing it is clear that families of Republican Prisoners are now within the sights of the reactionaries.

The Queen -V- Lukasz Artur Kubik

[1] The applicant was convicted on 11 December 2013 by majority verdict at Belfast Crown Court of one count of rape contrary to Article 5(1) of the Sexual Offences (Northern Ireland) Order 2008 and one count of sexual assault contrary to Article 7(1) of the Sexual Offences Order. We dismissed his renewed application for leave to appeal the conviction on 11 June 2015. He now seeks leave to appeal against the extended custodial sentence of 9 years comprising 4½ years in prison and 4½ years on licence followed by an extended licence period of 3 years imposed on 11 April 2014. Mr O'Donoghue QC and Mr Sherrard appeared for the applicant and Mr McCollum QC and Ms Kitson for the PPS. We are grateful to all counsel for their helpful oral and written submissions.

[30] Rape is a very serious offence. It rightly invariably carries a significant sentence of imprisonment for the perpetrator. It does not follow, however, that every perpetrator represents a significant risk of serious harm by the commission of similar offences. Each case must be assessed robustly on its own merits. We have been referred to the cases of R v Xhelollari [2007] EWCA

Crim 2052 and R v Nouri and Ibrahim [2012] EWCA Crim 1379 where the Court of Appeal in England and Wales set aside findings of dangerousness in those rape cases. We do not know sufficient about the background of those cases to enable us to conclude whether such a course would have been taken in this jurisdiction but the cases lend support to the proposition that an isolated sexual offence on its own may not form a basis for a finding of dangerousness. We consider that it has not been demonstrated in this case that there is a significant risk of serious harm from similar offending. We wish to make it clear that we have had the benefit of extended submissions on the question of dangerousness and been referred to case law which was not opened before the learned trial judge. Our decision should not be seen as any criticism of her careful approach.

[31] Conclusion: We grant leave and allow the appeal substituting a determinate custodial sentence of seven years comprising 3 ½ years in custody and the same on licence and removing the extended sentence. The ancillary orders and recommendations will remain in place.

Government Considers "Alcatraz" Jail Unit for Islamist Terrorists Alan Travis, Guardian

The government is seriously considering placing all convicted Islamist terrorist prisoners in England and Wales in a single secure unit, a proposal for a British "Alcatraz" that is prompting alarm among prison chiefs. The idea would overturn 50 years of dispersing the most dangerous prisoners in the system and is expected to be backed by a review set up by the justice secretary, Michael Gove, to examine how the 130 convicted Islamist terrorists are dealt with behind bars. David Cameron gave a strong hint in a speech on prison reform that the option of a separate secure unit is being looked at. The prime minister said he was ready to consider major changes in the location of convicted terrorist prisoners to prevent them recruiting up to 1,000 current prisoners who have been identified as being at risk of extremist radicalisation. "We will not stand by and watch people being radicalised like this while they are in the care of the state … And I want to be clear – I am prepared to consider major changes: from the imams we allow to preach in prison to changing the locations and methods for dealing with prisoners convicted of terrorism offences, if that is what is required," Cameron said.

However, a leading counter-terror expert warned that bringing together all convicted Islamist prisoners in one "jail within a jail" risks creating a focal point for public protests. Prof Peter Neumann said: "The trade-off is this: you want to separate terrorist prisoners in order to prevent them from radicalising others yet you don't want to create a focal point for public protests – a 'British Guantanamo', however much of a misrepresentation that might be – or provide an opportunity for terrorist prisoners to create (or recreate) operational command structures inside prison that might not have existed outside." ince the 1960s terrorists incarcerated in England and Wales have been dispersed among six maximum security jails. They have then been regularly moved around the dispersal prisons to prevent long-term relationships building up between them. Any of the current dispersal prisons could be designated to hold all convicted Islamist terrorists and converted to create a segregated terrorist unit or "jail within a jail" within their perimeter. They include Frankland near Durham, Full Sutton near York, Long Lartin in Worcestershire, Wakefield in West Yorkshire, Whitemoor in Cambridgeshire, and Belmarsh in south-east London. Gove's review is being led by Ian Acheson, a former prison governor and a senior Home Office official, who is understood to be actively considering recommending a separatist solution and holding convicted Islamist terrorists in one jail. Downing Street is also understood to be interested in this approach, citing recent developments in France where Islamist terrorists have been concentrated together in isolation wings to prevent them radicalising the much larger Muslim prison population in French jails.

"Michael Spurr [the chief executive of the National Offender Management Service] is very concerned that Acheson is going to come to the wrong conclusion," said a Whitehall source. Neumann also warned that a separatist unit could provide an opportunity to create an "operational command and control structure" for Isis in Britain that currently does not exist inside or outside the prison system. "The second point is now more important than ever. With large numbers of 'lone operators' who may not be particularly ideological and who have failed to join the command and control structures of groups like IS, the risk of them connecting with ideological and operational leaders while imprisoned is real. In other words, a policy of concentration may inadvertently help to create the kind of hierarchical organisation that the terrorists found it impossible to create outside," said Neumann.

The experience at the Maze prison in Northern Ireland in the 1980s, where republican and loyalist prisoners organised themselves along military lines and ran their respective H-blocks, is often cited as the main argument against a separatist solution. Neumann, the author of an authoritative study comparing prison regimes for terrorist prisoners in 15 countries, said there was a trade-off involved but he thought the current British dispersal system was probably the best way of tackling the issue. The issue of a single maximum security prison to house the most unruly and disruptive prisoners in the system was raised in 1995 after the IRA breakout from a special secure unit at Whitemoor prison in Cambridgeshire. The official Learmont inquiry recommended they be housed in a purpose-built US-style supermax prison because the then growing availability of explosives and weapons to criminals posed a much greater threat than before. But it was never implemented by the then home secretary, Michael Howard. But as Neumann points out in his study, the IRA prisoners in English jails made no deliberate attempt to radicalise or recruit "ordinary criminals" who they saw as unreliable and ill-disciplined: "Many al-Qaida affiliated prisoners, on the other hand, see it as their duty to propagate their faith and political ideology and will consequently exploit whatever opportunities they are offered to approach other offenders and turn them into followers."

Early last year France started to experiment with separating suspected Islamist radicals from the general prison population at the large Fresnes jail. The "quarantine" programme which also tries to separate returnees from Syria and Iraq from seasoned jihadists was expanded to several Paris prisons in the aftermath of the Charlie Hebdo attacks. A Ministry of Justice spokesman said: "The justice secretary has asked the department to review its approach to dealing with Islamist extremism in prisons. This is being supported by external experts and sits alongside the cross-government work currently under way in developing deradicalisation programmes."

Exoneration Doesn't Always Mean Freedom or Compensation

Jeff Gerritt. Editor, The Blade: Not every exoneration has a happy ending. Many end up like Danny Brown's. Fifteen years after he was exonerated by DNA, prosecutors in Toledo, Ohio, still cling to the dubious eyewitness identification of a then-6-year-old boy to insist that Brown remains a suspect in the rape and murder of the boy's mother. In all that time, prosecutors have successfully prevented Brown from collecting compensation for the 20 years he spent in prison even though they have uncovered no evidence linking Brown to the man whose semen was found on the victim. Brown is now homeless and in declining health. Jobs are hard to come by even when he's in good health because he remains a suspect in a horrible murder and suffers from the anxiety that comes with it.

Danny Brown walked out of prison nearly 15 years ago, after DNA evidence reversed his murder conviction. But he won't be truly free until the state recognizes his innocence and

compensates him for his wrongful imprisonment. I hope that day comes before Mr. Brown, now 60, blows a gasket. Sick and broke, he has been living at Cherry Street Mission for nearly six months. Mr. Brown's obsession with clearing his name is taking a toll. Last Thursday, sitting with me in a downtown McDonald's, he sipped black coffee and pulled out a plastic bag with enough medication to choke a horse. Unzipping the bag, he dropped nearly a dozen bottles onto the table. Sifting through a kaleidoscope of pills, his hands shook like leaves in the wind. Nerves. High blood pressure. Anemia. A recent bout of pneumonia. Post-traumatic stress. A life-threatening blood disorder. All this and more are slowly killing Mr. Brown.

A former warehouse employee, Mr. Brown hopes to work again. He can't, though, until an operation stops his internal bleeding. So he reads newspapers, watches news programs, and talks knowingly about the world's injustices. It's a full-time job — and then some. Nothing much has changed since I talked to Mr. Brown a few months ago. His mind is locked on rewind and play. He doesn't want to talk about his health, the weather, Kendrick Lamar's new album, or what it was like to spend nearly 20 years in prison for a crime he didn't commit. Instead, he replays the details of his 1982 trial, dissecting its travesties and inconsistencies. It's like a movie he's seen a thousand times, or a nightmare that visits him every night.

Under state law, Mr. Brown's wrongful imprisonment suit should entitle him to more than $1 million. (Ohio's rate for compensating the wrongfully imprisoned is about $50,000 a year, plus lost wages and legal fees.) But as crazy as it sounds, I don't think the money matters much to him. We've talked a dozen times. He mentioned the money just once — last week, when he said the judgment would buy him some decent health insurance. Medicaid covers him now.

Getting it done should be a lot easier than it is. Ohio makes people like Mr. Brown jump through hoops and over barriers to get paid — some of which they cannot overcome.

It's been 15 years since Mr. Brown went home, after a DNA test identified semen from the crime scene as Sherman Preston's. But Lucas County Prosecutor Julia Bates, who dismissed the charges against Mr. Brown, still maintains that he is a suspect in the 1981 murder of Bobbie Russell, who was beaten, raped, and strangled with an extension cord.

Preston, 64, who refused to talk to me, has been in prison since 2000 for committing another murder in 1983. It was strikingly similar to the horrific crime Mr. Brown went up for. Ms. Bates points to the testimony of Bobbie's son, Jeffrey, who was then 6 years old. Jeffrey testified that he saw Mr. Brown in the house — and entering it — on the night of the murder.

I couldn't reach Jeffrey Russell, who now lives in Pueblo, Colo. But in 2008, Thomas Ross, a former cop and now an investigator for the Lucas County Prosecutor's Office, interviewed him. I listened to the tape in Mr. Ross' office three weeks ago. It confirms that Mr. Russell, while forgetting a few details, stands by his original testimony. Last year, Mr. Ross tried several times to contact Mr. Russell for me, but couldn't reach him. I don't doubt that Mr. Russell believes he saw Mr. Brown on the night of his mother's murder. But mistaken eyewitness testimony is a leading cause of wrongful convictions. And this testimony came, initially, from a terrified 6-year-old, who spent much of the time during the crime hiding in his bedroom. Mr. Brown can't prove his innocence — but neither could anyone who was old enough to kill on Dec. 5, 1981, and doesn't have an airtight alibi for where he or she was.

For the state wrongfully to convict Mr. Brown and send him to prison for nearly 20 years is bad enough. But then to put the burden on the victim of this appalling injustice to prove something he can't makes it even worse. The criminal justice system asks people to man-up and accept responsibility for their mistakes. It ought to do the same. If the state, through the

prosecutor's office, dropped its objection, things would go much easier for Mr. Brown. He could probably get the declaration, or order, from the Lucas County Common Pleas Court that he was wrongfully imprisoned. Then he could file with Ohio's Court of Claims, which calculates the amount of the judgments. The county court has already ruled against Mr. Brown. His attorney, Patrick Quinn of Columbus, who seems genuinely moved by Mr. Brown's plight, has filed another suit. Common Pleas Court Judge Gene Zmuda has yet to rule on what is Mr. Brown's best remaining shot. If Mr. Brown can't get vindicated in court, he still will find meaning and purpose in a quixotic personal struggle to absolve himself. That's a tricked-out way of saying that, whatever happens, Danny Brown will fight for his reputation — even if it kills him.

Danny Major Case Likely to Result In Criminal Convictions *Jon Robins, Justice Gap*

An 'explosive' report into the wrongful conviction of a former West Yorkshire police officer looks set not only to undermine the original prosecution case but calls into question the integrity of subsequent investigations. Danny Major has protested his innocence for more than 12 years and it has been almost three years since Greater Manchester police began an investigation into the conduct of neighbouring force, West Yorkshire over the incident. The final report, made available to the Justice Gap, could result in criminal convictions. 'In 30 years in the police service I have never seen a report as critical of one police force by another force,' said Ian Hanson, chairman of the Greater Manchester Police Federation. Hanson, who is representing he family, describes the report as 'explosive'. 'The report vindicates Danny Major and what he has been saying for 12 years,' he added.

Sussex Police Settle Human Rights Claim Following Domestic Homicide

Cassie Hasanovic was fatally stabbed by her husband in front of their children and her mother in July 2008. In the months leading up to her death Cassie contacted Sussex Police on numerous occasions to report that Harry Hasanovic was acting threateningly and violently towards her, but the police failed to take steps to protect her. On the day of her death Cassie was fleeing with her children to a domestic violence refuge. The police did not provide protection or an escort for the family and she was fatally attacked in the driveway. The family brought a claim against Sussex Police for their failures to protect Cassie. The claim was brought under Articles 2, 3, 8 and 14 of the Human Rights Act 1998 and for misfeasance in public office. The case was settled on the basis of the breaches of the Human Rights Act.

UK Juror's Contempt of Court Conviction – No Violation of Article 7

[On 4 July 2011 Ms Dallas attended jury service in the Crown Court. Before the case was opened the judge gave a number of directions to the jury underlining the importance of deciding the case only on the basis of what they saw and heard in the courtroom. The judge told the jury that they must not speak to anyone about the case and must not go on the Internet.] In Chamber judgment in the case of Dallas v. the United Kingdom (application no. 38395/12) the ECtHR held, unanimously, that there had been: no violation of Article 7 (no punishment without law) of the ECHR. The case concerned Ms Dallas' conviction for contempt of court as a result of her conducting Internet research in relation to the criminal case she was trying as a juror. Ms Dallas complained that the common law offence of contempt of court had not been sufficiently clear. The Court found in particular that the test for contempt of court applied in her case had been both accessible and foreseeable. The law-making function of the courts had remained within reasonable limits and the judgment in her case could be considered, at most, a step in the gradual clarification of the rules of criminal liability for contempt of court through judicial interpretation. Any development of the law had been consistent with the essence of the offence and could be reasonably foreseen.

HMP Leicester – Conditions Had Deteriorated Very Badly

HMP Leicester needed to focus on safety as conditions had deteriorated since its last inspection, said Martin Lomas, Deputy Chief Inspector of Prisons. HMP Leicester is a small, Victorian prison in the heart of the city. It held 325 prisoners at the time of its inspection, 50% more than the number for which it was built. Coupled with this unacceptable level of overcrowding was the high degree of prisoner need, plainly evident to anyone walking around the wings. Unlike the previous inspection in November 2013, when inspectors felt problems were at least being addressed, this more recent inspection found a prison that had deteriorated.

Inspectors were concerned to find that: 32 recommendations from the last report had not been achieved;• the conditions in the segregation unit were terrible; • levels of violence were high, including a very high assault rate against staff; • the prison collected good data and some reactive measures were reasonably effective but there was no strategy and no plan to reduce violence and intimidation; • although reception staff were welcoming to new arrivals, the facility was grim and the management of risk and vulnerability were poor; • levels of self-harm had increased by 50% since the previous inspection in 2013 and were now five times the number in other local prisons; • the quality of support for prisoners at risk of suicide and self-harm was inconsistent; • new psychoactive substances and alcohol were readily available in the prison; • basic procedural security was poor, as staff often could not account for prisoners; • use of force was very high but arrangements to ensure accountability were weak; • prisoners struggled to access basic necessities such as toiletries, clean clothes and bedding; • the promotion of diversity had deteriorated and little was done for groups with protected characteristics; • the time prisoners spent out of their cell was poor, and neither staff nor prisoners seemed to know what to expect from the daily routine; • attendance at work or learning was inadequate, and typically fewer than a third of prisoners were engaged in activity at any one time, even though there was sufficient activity to engage everybody on a part-time basis; • the strategic management of resettlement services had deteriorated; and • offender supervisors were routinely redeployed owing to staff shortages, which meant contact with prisoners was limited and a third of prisoners did not have an up-to-date assessment of risk (OASys) or sentence plan. Inspectors made 76 recommendations.

Martin Lomas said: "This is a poor report. We found pockets, such as the gym, substance misuse services and the work of the Community Rehabilitation Company, where the prison was operating more effectively, but much of what we inspected had deteriorated. Managers were aware of the problems and data was being collected, but it wasn't being used and problems were not being analysed. There were few meaningful plans to effect progress and we could discern no determination of priorities. Managers should start by making the prison safer and gaining control of basic operational routines."

Hostages: Sally Challen, Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, 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, Robert Knapp, 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.