William Gage Loses his Appeal

Press release from MOJO Scotland

William Gage's appeal against the conviction of murder, had been denied. This judgment is a travesty of justice, which relies wholly on circumstantial evidence, it is inconceivable that the evidence, the burden of proof, led at the trial can prove beyond a reasonable that William Gage has any involvement with the shooting of Justin McIlroy.

There is no direct evidence that connects William Gage with the shooting at Acacia Way in Cambuslang. They are keeping a man locked up in what can only be described as a spurious innuendo, and not facts that should be used in a court of law. The continue to maintain that a 'white car' found in Easterhouse is linked to William Gage via DNA found on particles of the clothing in the boot of the car, there was also two other unidentified DNA found on the clothing as well.

More importantly they allege that 8 particles of Firearm Discharge Residue, FDR, found on articles of the clothing, show that the white car was involved with a gun crime, and as no reporting of an gun incident involving a white car, then this shows that this car must be tied to the shooting of Justin McIlroy.

There are a number of problems with this argument first, the Appeal Court accepts that the FDR was a common type and 'similar' to the FDR found at the scene of crime. Similar means that it is not the same, therefore the 8 particles did not come from the gun that shot Justin McIlroy. The worst part of the Appeal Court, and Crowns argument, is the fact that they maintain that 8 particles prove a gun crime.

This is an absurd assumption, as one shot would release thousand of particles, never mind 5 shots that killed Justin McIlroy. According to Dr John Lloyd former Home Office Forensic Scientist, "when a gun is fired, this primer when it is fired turns into thousands and thousands of minute particles". But only 6 were found on the jacket, three on the surface and three particles in the pocket. It is more likely that the lack of FDR shows it has come from cross-cross contamination, even in the U.S. A a number of States will not allow the use of FDR as evidence as it is highly contaminable. Therefore there is no proof that this jacket was worn when a gun was fired, and certainly no proof to link it with the gun that killed Justin McIlroy.

William Gage's fight for justice goes on, the quality of evidence presented at trial and now propped up by the Scottish Appeal Court, is a disgrace and should enrage any intelligent honest person.

This case will be going to the Supreme Court, and if necessary to the European Court of Human Rights, this is a travesty of justice, that in the 21st Century a man can languish in a Scottish Prison serving a life sentence that is purely circumstantial, and rather than be wholly compelling makes a mockery of Justice, Lord Hamilton should hang his head in shame.

Messages of Support/Solidarity to:

William Gage: 2319 ~ C3/15, HMP Shotts, Lanarkshire, ML7 4LE

Hostages: Leon Chapman, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Gary Critchley, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Jordan Towers, Peter Hakala, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Frank Wilkinson, Stephen A Young, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.Ishtiaq Ahmed.

Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844 Fax: 087 2023 1623

MOJUK: Newsletter 'Inside Out' No 357 (05/02/2012)

We have got to get Leon Chapman - the Case of the Superimposed Photograph

There must be one thousand and one ways to fit-up a potential suspect by the police. Some are clumsy and inept, quite transparent to a jury, whereas others are remarkable and ingenious leaving the jury with one option, to find the defendant guilty. But whatever the case, I suggest, there is always one devious and depraved detective in the enquiry team who is willing to go to any lengths to dupe a gullible jury into accepting the fabricated evidence. Normally, he or she is the one that should be in the dock.

Historically, this nightmare ordeal started way back in 2002 when a warrant was issued for Leon Chapman's arrest for a driving offence. Subsequently, in June 2002 he was arrested in Brussels as he prepared to board a Eurostar train to London. Due to the warrant Chapman was using a false passport in the name of Andreas Pattison which was seized and later exhibited as GS/1. As the train pulled into Victoria Station, however, Chapman slipped pass the waiting British Police and evaded arrest.

Fast forward to December 2004, Chapman was driving through Leicester Square, Central London, when he was given a routine vehicle stop check by traffic police and was astonished to find out that another warrant had been issued for his arrest in relation to an armed robbery on a major retail jewellers in Nuneaton. As a result he was processed, charged and remanded to the High Secure Unit in Belmarsh Prison.

While in, police custody, Chapman was also quizzed inter alia, about the importation of arms and due to insufficient evidence which will be explained later he was bailed to come back at a later date. In short, various police forces were queuing up to speak to Chapman about a catalogue of crimes across the UK. It was like the Keystone Cops and an Ealing Comedy all in one.

At the trial for the jewelery robbery, Chapman provided solid alibi evidence as to his whereabouts on the crucial day of the offence and the jury was sent out to consider its verdict. Then an amazing incident occurred.

As a male juror was coming through the airport style metal detector at the entrance to the court, the senior officer in the case, whispered to him, "We have got to get Chapman!" Full credit to the juror, he sent a private letter to the trial judge and explained the illegal and improper approach to subvert the outcome of his decision. Chapman was given the option of continuing with the same jury or a retrial. He elected the former and was justifiably acquitted.

The police were fuming, so much so, they immediately rearrested Chapman as he was leaving court and was quizzed about a string of other offences including robberies in the UK.

While this was happening, the CPS told DS James Boyd of the Metropolitan Police Terrorist Unit that there was insufficient evidence to charge Chapman for the importation of arms offence. All in all, it was like a turkey shoot and the police were scrabbling for evidence, any evidence to charge Chapman with more offences.

What Chapman did not know, however, was DC James Boyd, as he was then known, was a member of the infamous Rigg Approach Flying Squad in East London in the 1990s where 25 officers faced allegations of corruption, dishonesty and perverting the course of justice.

The principal allegation was some officers at Rigg Approach were proactive in commit-

ting offences of dishonesty, these included the possession of a "First Aid Kit" which contained a balaclava and an imitation firearm which could be planted on an unarmed suspect who had been shot in good faith, or to enhance a case where the evidence was circumstantial but not overwhelming.

Although DC Boyd was not one of the 25 officers disciplined or charged, he was among a larger group of officers who possessed a "general awareness" of the "First Aid Kit" and its dark purpose, but made no attempt to prevent the use of this hideous and improper practice.

Against this background of gurgling resentment and sour grapes, it is suggested, DS James Boyd orchestrated his "last throw of the dice."

The basic details of the offence were on the 21st April 2002, a cross-channel ferry arrived at Felixstowe from Rotterdam. Port Customs Authority pull aside a flat bed lorry carrying a black VW Golf vehicle bearing no registration plates. The car was inspected and found to contain a large haul of plastic explosive, remote detonation devices, rocket propelled grenades, hand grenades, submachine guns, handguns and silencers.

The police quizzed two people who accompanied the vehicle and found out that they were innocently recruited through the Yellow Pages to travel to Holland to collect the vehicle and bring it back to the UK. Sensing something was not right in relation to the given task they notified the Port Authorities at Felixstowe.

Further investigation by the Anti-Terrorist Squad revealed the accident damaged VW Golf was purchased by a mysterious Moroccan called Karim Feddahi. He purchased the vehicle from Snijder's Yard in Gronsveld, near Maastricht, Holland, on the 26th March 2002 in order to drive it back to his native Morocco and sell it.

The next day, however, Feddahi was approached by two men, one Moroccan who spoke Arabic and another black man who spoke English. They offered to buy the VW Golf from him for cash which provided Feddahi with a quick profit.

Dutch law dictates, however, that the seller of a vehicle must obtain photographic identification as proof of purchase. The men returned 30 minutes later with a photocopy of a Dutch pass¬port in the name of Mr Van De Haar and bought the Golf. Almost a month later the vehicle landed on British soil and the substantive arms cache was discovered by the Port Authority.

Telephonic communication and data were examined between those that were innocently recruited to collect the vehicle in Holland and a man called Earl Bailey who was placed under police surveillance to log and locate his associates.

Subsequently, Bailey was arrested, charged and was in prison custody for six months before Chapman was stopped in his vehicle in Leicester Square, Central London. Immediately, Chapman denied any involvement in the importation of arms offence and volunteered to go on an identification Parade with the seller of the vehicle.

A senior Police Inspector identification officer and lawyer for Chapman flew out to Germany to conduct a VIPER identification procedure. The witness Feddahi was shown a total of nine images, one of them being the suspect Chapman, but it produced a negative identification.

Amazingly, in breach of strict PACE Codes of Practice in relation to Identification Parades, the Inspector conducted another parade using still photographs images of volunteers and Chapman, proclaiming the suspect had changed his appearance since the purchase of the vehicle. This also produced another negative identification.

Not only was this procedure unlawful and improper, but it was fast becoming clear that if the police were so brazen about breaking laws of procedure and practice in the open, what

Stephen Lawrence killers' appeal puts use of covert video in the frame

The appeal of Gary Dobson and any subsequent appeal by David Norris will centre on whether the trial judge was right to allow covert video to be played to the jury, showing them making vulgar racist comments and fantasising about inflicting violence on black people. During the Old Bailey trial which led to Dobson and Norris's conviction for the murder of Stephen Lawrence, their barristers tried to stop the covert video being played to the jury as evidence that Dobson and Norris held racist views and had the capacity for violence.The video was undoubtedly dramatic, and it could not have failed to have at least some effect on the jury. The question will be whether the jury was properly influenced.

Rate of deaths in custody is higher than officials admit

Independent investigation shows cases are left off the list if the deceased was not formally arrested The number of people who have died after being forcibly restrained in police custody is higher than officially stated, an investigation by The Bureau of Investigative Journalism and The Independent reveals today. The investigation has identified a number of cases not included in the official tally of 16 "restraint-related" deaths in the decade to 2009 – including a landmark case that changed the way that officers carry out arrests. Some cases were omitted because the person had not been officially arrested or detained.

The omission raises questions about the statistics used by the Independent Police Complaints Commission (IPCC) to inform the debate over the use of restraint by police in the sensitive area of deaths in custody, campaigners said yesterday. The cases emerged after a series of applications made under Freedom of Information legislation requesting the names of the people in the 16 restraint-related deaths identified by the IPCC. Analysis of the figures reveals the omission of eight high-profile cases from the list, including that of Roger Sylvester, who died after being handcuffed and held down by up to six officers for 20 minutes. The case led to changes about how police arrested suspects and detained the mentally ill.

Restraint techniques that have an 'ever-present' risk of death

Restraint techniques used to deal with extremely aggressive people can substantially restrict their ability to breathe, an expert has told The Bureau of Investigative Journalism amid calls for fresh scrutiny of the way some of the most disturbed detainees are held by police.

Dr John Parkes, a restraint expert at Coventry University, said those pinned down by police were likely to struggle more as they fought for air. "In the cases in our research, we have used no extreme force, but in some cases have restricted their ability to breath by up to 80 per cent...That was done with very, very little force indeed," he said.

The police continue to use restraint techniques that have been attributed to deaths stretching back nearly two decades. Guidelines do not bar any particular holds but say that the use of force must be lawful, proportionate and necessary. One technique is so-called "prone restraint", which involves forcing a suspect face down on the floor, cuffing their hands behind their back and then putting pressure on their torso, shoulders and neck. Stricter guidelines on the use of prone restraint in prisons were brought in during the mid-1990s following a spate of restraint deaths. Prison service rules now state that "pressure should not be placed on the neck, especially around the angle of the jaw or windpipe. Pressure on the neck, particularly in the region below the angle of the jaw (carotid sinus) can disturb the nervous controls to the heart and lead to a sudden slowing or even stoppage of the heart."

'Miscarriage of Justice' Victim Awarded £400,000 BBC News, 25/01/12

A former Cleveland Police officer who was wrongfully sent to prison has been awarded almost £400,000 after an 18-year legal fight. Former traffic officer Sultan Alam, 48, was jailed for 18 months in 1996 for conspiracy to steal car parts, but was cleared by the Court of Appeal in 2007. As well as damages, Mr Alam will also receive compensation for loss of earnings which have yet to be calculated. After being wrongfully jailed, Mr Alam was reinstated to Cleveland Police, but retired in 2009 on health grounds.Cleveland Police had admitted the malicious prosecution of Mr Alam, at Leeds County Court. No immediate comment was forthcoming from the force.

Judge Andrew Keyser QC said the force had tried to "destroy" his reputation. 'Deliberate target': The court heard how the officer, who served half of his prison sentence, was "stitchedup" by fellow officers as a result of industrial tribunal proceedings he launched in 1993, complaining of racial discrimination. In 2003, four fellow officers involved in Mr Alam's original prosecution were charged with conspiracy to pervert the course of justice and other offences, but were acquitted. In his judgement Judge Keyser said: "The claimant knew that he was not the unfortunate victim of an accidental miscarriage of justice but that he was the deliberate target of a conspiracy to pervert the course of justice, the aim of which was to destroy his reputation and his career. That is not an incidental feature of this case but is at the heart of the harm suffered by the claimant. "The award of aggravated damages reflects the fact that that downfall was deliberately brought about by the concerted action of police officers."

Earlier this month after hearing he would receive damages, Mr Alam said: "I'm relieved it's over."

Police told they must reopen Chhokar case Karrie Gillett, Indpendent, Thursday 26 January 2012

Strathclyde police have been told that, under double jeapordy legislation, they must reopen the investigation into the racist murder of Surjit Singh Chhokar who was killed 13 years ago. The family of Surjit met with Scotland's top law officer who confirmed Strathclyde Police have been instructed to carry out further investigations into his murder under double jeopardy legislation.

Reform of Scotland's centuries-old double jeopardy law, which came into force at the end of last year, means the men originally accused of the murder could face a retrial.

Speaking after the meeting at the Crown Office in Edinburgh, the family's solicitor Aamer Anwar said there are "Significant hurdles to cross, thirteen years ago as Surjit's family began their struggle for justice, every step required their sacrifice and suffering. The Lord Advocate and Solicitor General have taken important steps today, but there are significant hurdles to cross. The family believe there is a determination to fight for justice. This is a second chance for the Crown Office to do the right thing but also to show there has been a positive change 13 years later. Surjit's family will only ever be at peace when there is justice. It is now up to the Lord Advocate and Strathclyde Police to do all that is possible."

Mr Chhokar's sister, Manjit Sangha said, "People will have forgotten Surjit's name, yet the darkness of his murder still shadows our lives. All that we have ever asked for is justice. The recent changes in the law once again gave us hope."

The Double Jeopardy (Scotland) Act 2011 came into force on November 28, setting out five new conditions where an accused could be retried for a crime they were previously acquitted of. These include if evidence later emerges that an acquitted person has admitted to committing the offence, or where the original acquittal was "tainted", possibly by witness or juror intimidation.

MOJUK stand firmly - Double jeopardy legislation must be repealed

were they capable of doing behind the scenes.

The elite Police Forensic teams had already swabbed the vehicle and its illicit cargo for DNA and also checked for fingerprints, but it was negative in regard to Chapman. Nor were there fingerprints on the documents of the vehicle. Nor was there any telephone data or evidence linking Chapman to the offence.

The case appeared to be dead in the water until DC James Boyd flew out to Germany to retrieve the photocopied proof of purchase document from Feddahi (Appendix B) which he later exhibited as JB/S.

What happened next is a matter of dispute, but Chapman suggests, in order for DC Boyd to charge Chapman with the importation of arms offence, he deliberately superimposed the earlier pass¬port photograph of Andreas Pattison (Chapman) with that of Mr Van De Haar (not Chapman) on the proof of purchase document and this was enough to put Chapman on trial for the alleged crime.

One of the major telltale signs of a veritable police fit-up at trial is when the police and prosecution place impenetrable obstacles in the way of legitimate disclosure information. The last thing the police want to do is to provide the defence with appropriate background checks of the main prosecution witness, especially if there is something dubious about him. All the defence knew of Feddahi was he was a mysterious Moroccan who had a conviction for being concerned in the supply of heroin.

For all the defence knew, Feddahi could have been a state paid and registered police informant, an undercover police officer, an agent provocateur, a Government agent, suspected terrorist or a renowned international gun-runner, for he was given all the grace and favour of an anonymous witness at trial, as he gave evidence via video-link from Germany as he refused to come to the UK.

More disturbingly, one wonders if Feddahi was working with the original Van De Haar passport document in Germany (Appendix B) and the court were referring to the overlaid and copied fabricated document JB/S in the UK. For let's be frank, it was the perfect scenario to dupe the court, as the judge, counsel defendant and jury cannot visually inspect the small print of a document via video-link.

To add insult to injury, the Dutch Police had seized the Bill of Sale document (Appendix A) from Feddahi which was extensively handled by the suspects in the completion of the required details. This would not only provide fingerprints of Feddahi and the offenders but also allow a handwriting comparison to be conducted. Alas, this vital document went missing in transit to the UK. Who was responsible for-the collection of this document? You have guessed it, DC James Boyd.

Not one to hide behind the screen in the dock at court, Chapman gave evidence and stated on 26th March 2002 he did not purchase the VW Golf and he was not in Holland at the time of the offence. But the damage was done, in July 2006, Chapman was wrongly convicted of conspiracy to possess prohibited weapons and ammunition and an explosive substance for an unlawful purpose. He was sentenced to 12 years imprisonment.

There is no dispute in my mind that Chapman would not be in prison today if the Anti-Terrorist detective with the dark past and purpose had not unlawfully inserted Chapman's photograph onto the proof of purchase Van De Haar passport document. The jury obviously believed that Chapman was one of the two men that bought the vehicle and come to a 11 to 1 majority verdict.

There is no doubt that Chapman has been in the cross wires of the police for a long while, as seen in their relentless quest to arrest, charge and imprison him, but there is one thing he can cat-

egorically state: he is not an international arms smuggler as it would be completely out of character for him to allow himself to become involved in such a repugnant and repellent crime.

In the aftermath of the wrongful conviction, Chapman submitted an Appeal against Conviction to the Court of Appeal, but they refused leave to Appeal.

As one door closed in the face of Chapman another one has opened in the form of an application to the Criminal Cases Review Committee (CCRC) to reinvestigate his case.

All Chapman asks, is that the CCRC employs its special investigative powers under the Criminal Appeal Act 1995 to disprove the provenance and integrity of the overlaid and copied Van De Haar proof of purchase document (JB/5).

It may mean travelling to visit the Dutch Police and possibly conducting a paper test on JB/5 to ascertain whether or not this type of paper was ever in circulation in Holland circa 2002.

Arguably, it is hoped, these new lines of enquiry will not only resolve and remedy a deliberate miscarriage of justice but the cross wires of suspicion will refocus upon the previously discredited former Rigg Approach officer.

Leon Chapman: A5544AL, HMP Whitemoor, March, PEIS OPR.

Annex I - Att: Maslen Merchant Hadgkiss, Hughes and Beale OX 10788 Moseley

Dear Mr Merchant, DS James,Boyd and Leon Chapman

Thank you for your letter of 22nd November 2011. I enclose a document dated 26th August 1999 which sets out the position as at that date in respect of officers at Rigg Approach. So far as I am aware there is no change in either the categories of officers, nor membership thereof.

DC James Boyd, as he then was, fell within Category 2 - the so-called "General Taint". So far as I am aware he did not face trial prior to 1999; As to developments since, that is a matter for those involved with the prosecution of your case.

It may assist you to know that a chap called Mike Procter recently dealt with a Rigg Approach appeal on behalf of the CCRC. At our Appeals Unit in London the case was dealt with by lain Wicks at London HQ. I pass on these details because it may save time by referring the matter to those persons in their respective organizations.

Yours sincerely, Crown Prosecution Service, Complex.Casework·Centre

Annex 2 - Rigg-approach - disclosure of allegations and outcome of criminal investigation into allegations set out in,paragraph 2 below

1. The Complaints Investigation Bureau of the Metropolitan Police have been investigating allegations of corruption, dishonesty, and perverting the course of justice 'allegedly committed by officers whilst attached to the Flying Squad office, based at Rigg Approach. As a result, approximately 25 officers have either been charged with criminal offences, suspended from, duty, or would have been had they not already retired. The Crown currently does not seek to advance these officers as witnesses of truth.

2.During the course of the investigation, evidence emerged concerning a further, larger group of police officers based at Rigg Approach. Whilst there was no allegation that this second group were proactive in committing offences of dishonesty, corruption or perverting the course of justice, the information suggested that there was a general awareness that a bag containing items such as an imitation firearm and balaclavas was available, either to protect the position of an officer who had shot an unarmed suspect' in good faith (and thereby to provide a justification for his action), or to enhance a' case where the evidence against a defendant was circumstantial but not overwhelming. The further information indicated that the items were not referred to overtly at firearms related briefings, rather that the officers conduct-

and mistrusted by established human rights bodies in Jordan, thorough investigation of alleged breaches of the undertaking is in neither party's interest, and there are no sanctions for breaches. It is hard to avoid the conclusion that the assurance is, as lawyers and human rights groups have pointed out, 'a fig leaf for torture'.

Whether or not the government appeals the court's ruling against Othman's deportation, the judgment is widely seen as an endorsement of the UK government's 'deportation with assurances' programme, which it has pushed since 2005 in the teeth of strong condemnation not just by organisations such as Amnesty International and Human Rights Watch, but also by the UN and Council of Europe. In June 2006 Thomas Hammarberg, human rights commissioner of the Council of Europe - under whose auspices the Court of Human Rights operates - wrote that diplomatic assurances 'are not credible and [have] also turned out to be ineffective in well-documented cases'. And for Dick Marty, the Swiss senator appointed by the Council of Europe to investigate extraordinary renditions, reliance on diplomatic assurances given by undemocratic states known not to respect human rights is 'simply cowardly and hypocritical'.[3] In 2005, the Home Office even sought to deport terrorist suspects to Colonel Gaddafi's Libya, under the terms of an undertaking whose performance was to be monitored by the 'human rights' group headed by Saif al-Islam, Gaddafi's son. Even for the Special Immigration Appeals Commission, this was a step too far and the deportations were halted in April 2007.

The court's acceptance of Jordan's no-torture assurances 'weakens the international prohibition against torture', according to human rights lawyer Eric Metcalfe.[4] It is hard to avoid the conclusion that this part of the judgment has been influenced by Britain's constant complaints of excessive interference. The concern now is that the government will move fast to resume the deportations to Jordan and to other torturing states which had been postponed pending Othman's case in the European Court. Algerians facing 'national security' deportation have lodged applications with the Strasbourg court and are expected to argue there that the risk of torture for them is even higher than for Othman, and the 'assurances' from the Algerian government even flimsier than those provided by Jordan. (The Algerian government refused to sign a formal undertaking, preferring a simple exchange of diplomatic notes, and refused independent monitoring of deportees' treatment in the notorious barracks where national security suspects are held.)

'Excited delirium' finding in custody death angers parents

Pathologist concludes Jacob Michael died of 'excited delirium', a term not recognised by Department of Health. The parents of a 25-year-old man who died in police custody have been angered by a Home Office pathologist's finding that their son died of "excited delirium", a medical term that is not recognised by the Department of Health.

The family of Jacob Michael, who died last summer after calling police saying he feared for his life, say the pathology report ignored how their son was heavily restrained by 11 officers on the street outside their home, as well as evidence of broken ribs and a torn liver. According to witnesses, Michael was repeatedly hit with police batons after fleeing his home when two officers from Cheshire constabulary entered his bedroom and released pepper spray into his face. The IPCC has told the Guardian that 58 witness statements have been taken and 98 exhibits logged in the investigation. Two pieces of relevant CCTV footage have been secured, including film from the police custody suite where Michael was held down on the floor by officers. Michael's father said: "As far as I'm concerned, if the police didn't treat my lad the way they did, he would be here today. He did nothing wrong, he hadn't committed any crime, he rang the police for help.

Juliet Lyon Prison Reform Trust said "Additionally, for young people who die in custody there will be a serious case review, commissioned by the local safeguarding board." We need to become 'wise before the event' and avoid locking up our most vulnerable young people in our bleakest institutions" Lessons must be learnt from the tragic deaths within one week of two children in prison. Above all, we need to become 'wise before the event' and avoid locking up our most vulnerable young people in our bleakest institutions." She also said that low staffing levels and lack of resources made it very difficult for staff to respond to youngsters in extreme distress.

A spokeswoman for the Prisons and Probation Ombudsman (PPO) said investigators would try to answer any questions Kelly's friends and family may have, and would also involve them in the investigation if they wished. She said: "Our independent investigation will aim to identify the full circumstances of the death and whether there were any failings in Alex Kelly's care. "Where possible we will identify lessons to be learned and make recommendations to the Prison Service to help prevent similar deaths in future."

Prisoners: Repatriation

Priti Patel: To ask the Secretary of State for the Home Department how many individuals awarded grants under the Facilitated Returns Scheme (a) have been sentenced to a period in custody in a UK prison and (b) have a criminal conviction for an offence committed in the UK.

Damian Green: All foreign national offenders who are non-EEA nationals who have been convicted and are serving or have served a custodial sentence in a UK prison and are accepted on the Facilitated Returns Scheme (FRS) will be granted an award of payment. This includes circumstances where they have served their sentence while on remand.

Abu Qatada decision causes alarm - to rights activists

By Frances Webber, Institute of Race Relations, 26 January 2012

As the prime minister derides the European Court of Human Rights as a 'small claims court', it isn't just the anti-human rights brigade who are worried by the its recent judgment.

'Once again, he has made fools of us', announced the Telegraph,[1] in response to the Strasbourg court's ruling that Omar Othman, aka Abu Qatada, the 'radical Muslim cleric' described as 'Osama bin Laden's ambassador in Europe' but never charged or tried with a criminal offence in the UK, could not be returned to Jordan where he faced trial on evidence obtained via torture. The court, overruling the House of Lords, said that such a trial would be a flagrant denial of fair trial rights and international law norms, to which Othman could not be returned. In the wake of the judgment, David Cameron told the court to spend more time on serious human rights abuses in eastern Europe, and wants its jurisdiction to deal with claims from countries such as the UK curtailed.[2] But for human rights campaigners, the court's decision in Othman's case did not go nearly far enough.

If it hadn't been for a trial in Jordan (in fact a retrial, on charges he was convicted of in his absence) there would have been no problem for the court in returning Othman to Jordan despite its abysmal human rights record. The fact that torture is endemic in police custody and in prison would not have prevented his deportation, because this torturing state has undertaken to treat Othman and other national security deportees 'humanely and properly' under a Memorandum of Understanding reached in 2005. The court held that the UK government is entitled to rely on this diplomatic undertaking as preventing ill-treatment, even though the organisation contracted to monitor deportees' condition is ill-resourced, inexperienced

ing any briefing would ensure that they were to hand if the need arose. There was no evidence which suggested that this larger group of officers played any part at any time in the use of the items in the manner described, but an inference could have been drawn that they were aware of their availability and the intended use. Notwithstanding this, it was alleged they made no attempt to prevent the practice.

3. A Police Complaints Authority supervised investigation has been conducted by CIB 2 into this general allegation set out in paragraph 2 above. All officers who could, by virtue of their dates of employment at Rigg Approach, have fallen within the parameters of the allegation in paragraph 2 have been interviewed (save one who is ill) and the police have also interviewed other Rigg Approach staff, and, have carried out other investigations. The Police Complaints Authority have issued an Interim Certificate.

National Headquarters of the CPS have subsequently advised that on the material presently available there is no realistic prospect of a conviction against any of these officers in connection with the allegations outlined in paragraph 2. The Police Complaints Authority have decided that no officer will face any discipline proceedings arising out of the "general taint allegation".

4. The Crown will oppose any application by the defence to cross examine any of these officers as to credit concerning these resolved allegations relying upon R' v Edwards (1996) 2 Cr. App. R. 345 and R v Guney (27 February 1998).

'British “justice” has always been about revenge and retribution'

Justice for offenders and the poor replaced by revenge under Clarke’s new proposals

By Raymond Peytors - theopinionsite.org, January 30th 2012

Oppressive state power is growing in Britain

Justice is being thrown out of the window and in its place a form of state revenge is taking over. The poor, prisoners, ex-offenders and those who speak up against the government are amongst those most affected.

In its latest bid to take further revenge on those who break the Law as well as to control those who end up in jail for standing up against the government, the Secretary of State for Justice, Ken Clarke has effectively been forced to announce measures that would apparently mean that anyone who has been convicted of a criminal offence, no matter how long ago that offence was committed, will no longer be able to claim compensation from the Criminal Injuries Compensation Authority.

This measure seems to indicate that if a prison fails in its duty to safeguard its prisoners or if probation or police officers release information that results in criminal injury to someone in their charge, only in “exceptional circumstances” will those affected be able to claim any form of compensation from the state, even if it or its officers are liable.

The measures, to be announced shortly, is the latest action by the coalition government (and the New Labour administration before it) to segregate those with criminal convictions from the rest of society. In short, TheOpinionSite.org would relate the message being sent by the government as “Do what you’re told from the day you are born, do not stand up against the state and, should you end up in jail for any reason whatsoever, we will then go on to take away from you everything and anyone that you have ever had.”

This is the same message that has been given to those in the United States where crime has risen dramatically as a result and whole sections of the community are being separated and segregated from mainstream society.

The result has been that whole subculture is have developed and the same thing is likely to happen in the UK if the government fails to recognise that taking revenge on people who think differently to the majority is not justice but is in fact nothing more than revenge of the worst possible kind.

The official reason given for these new measures is that Ken Clarke wants to reform the taxpayer-funded Criminal Injuries Compensation Scheme after annual costs trebled to almost £300m since 1997. Mr Clarke also wants criminals to contribute more towards the scheme.

Payment of "victim surcharges" by more offenders, and higher fines for driving offences, will raise £50m for victims. Mr Clarke wants to stop criminals claiming for injuries and psychological damage, as part of the reforms to be announced later.

Claims for minor injuries under the scheme for most UK citizens in England, Wales and Scotland would also be restricted under the plans.

The worry however for most of us truly concerned with justice, rather than revenge, is the manner in which the measures will be applied, with very little flexibility being given to the claimant and vague, vindictive, statements regarding an individual's criminal past being bandied about by those claiming to stand up for "ordinary, working people".

Ever since the Middle Ages, Britain has always tried to subjugate its people, usually by ensuring that the poor became poorer and the rich became more wealthy. The British have historically always been a vindictive nation and, like all countries that lose their empire, eventually end up turning on the only people that they have left to persecute – their own citizens.

Even the latest incarnation of British imperialism, now present in the form of David Cameron, goes on to regularly repeat the message. Mr. Cameron recently made it clear that he thought everyone in the country should not think and should not challenge but should instead "follow the rules" laid down by the government.

Such restrictions on thought and action do not of course apply to those in power or those who have more money than the rest of us. For these people – like the bankers who have caused so much distress, overpaid and irresponsible MPs, the endless armies of civil servants who are in a job for life, cannot be sacked, are paid huge salaries and when they stop work at 50, end up with the huge pension – for these people the rules are different.

It is still a fact, as any economist will tell you, that 95% of all the wealth in Britain is owned by or controlled by just 5% of the population.

British "justice" has always been about revenge and retribution. Britain is one of the few countries in Europe that does not recognise the principle of a Statute of Limitations in criminal law. That is why so many people are put in jail in this country for crimes that were committed sometimes as much as half a century ago.

On the other hand, where civil actions against public authorities are concerned, there are always strict time limits and huge bills to be paid and this effectively prevents ordinary people from getting compensation from the state.

To put it another way, if you committed a crime 50 years ago, you could well find yourself one day being put in jail for that crime, despite the lack of evidence and the fact that very few people can give an honest and truthful account of anything that happened 50 years ago.

However, if you want to claim compensation for the mistakes of a government agency, the prison service, the probation service or the police, you will find it almost impossible to succeed and may very well end up bankrupt anyway.

The British are taught from a very early age that there is a narrow pathway on which they

is not adequately equipped to withstand cross examination or participate in the process. The benefit to the defendant who is unfit to plead by virtue of mental impairment or learning disability is that, in the event the jury decide he did the act complained of, the disposal will often be a supervision order. A person therefore can often remain in his or her family setting with appropriate assistance from social services. Alternatively residential placements can be provided by the authorities to provide the requisite care to meet the defendant's needs. Thus the defendant and his or her family are relieved from the stress of custody.

INQUEST calls for action following second child death in custody in a week

Following the deaths of two children in custody in less than a week, INQUEST Co-Director, Deborah Coles said: "The tragic news that two children have apparently taken their own lives in custody in less than a week is not only shocking but unacceptable and a sad indictment of the way we treat children in conflict with the law. The deaths of *Jake Hardy and **Alex Kelly whilst in the care of the state are not isolated cases and raise ongoing questions about why we continue to send some of our most vulnerable children into unsafe institutions ill-equipped to deal with their complex needs."

INQUEST has consistently argued for a holistic inquiry, in public, to examine the underlying systemic and policy issues. The failure of successive governments to hold an inquiry makes it impossible to learn from failures that have cost children their lives. We can only hope that this week's events not only prompt parliamentary debate but decisive action by this government.

*Jake Hardy death: Investigation after inmate found hanging BBC News, 24/01/12

A 17-year-old has died in hospital after he was found hanging in his cell at a young offenders institution in Wigan. Jake Hardy, who was serving six months for affray and common assault, was found at HMYOI Hindley on Friday. The Prison's and Probation Ombudsman will conduct an investigation into the 17-year-old's death. A Prison Service spokeswoman said: "HMYOI Hindley prisoner Jake Hardy was found hanging in his cell at approximately 11.45pm on Friday January 20. A spokesman for the Prison's and Probation Ombudsman said the investigation would "try to provide answers" to family and friends about what happened and would involve Hardy's family if they wished to. He said: "The investigation will identify lessons to be learned to prevent similar deaths of young people. If failings are found, recommendations for improvements are made."

**Boy found unconscious at HMP Cookham Wood dies BBC News, 26/01/12

A 15-year-old boy has died after being found unconscious in his cell at a young offenders institution in Kent. The Prison Service said Alex Kelly had been identified as being at risk of suicide or self-harm, but did not give details of the boy's condition when he was found. Kelly was taken to hospital from HMP Cookham Wood, near Rochester, but he later died, a spokeswoman said. He had been serving a 10-month sentence for burglary and theft from a vehicle. The teenager was found in his cell at about 20:30 GMT on Tuesday. Staff tried to resuscitate him and paramedics attended before he was taken to hospital, but he was pronounced dead at 19:30 GMT on Wednesday.

Prisons and Probation Ombudsman Our independent investigation will aim to identify the full circumstances of the death and whether there were any failings in Alex Kelly's care" "Each death is subject to an investigation and, since 2004, these have been undertaken by the Prisons and Probation Ombudsman. The Prison Service spokeswoman said: "Every death in custody or the community is a tragedy for families and has a profound effect on staff and other offenders. "Noms is committed to reducing the numbers of deaths in custody.

will be acquitted and so he will have the advantage of challenging the Crown's evidence. If the finding is adverse to the defendant then the Judge has the power to make a hospital order (with or without restriction), a supervision order or an absolute discharge. The defendant can be diverted from the prison system in this way.

A common bar to being tried as unfit to plead is mental illness. Often a person's behaviour alone demonstrates a cause for concern. The duty psychiatrist can be instrumental in alerting practitioners to such cases. For many arrested persons there is a history of mental illness recorded on the custody record. Also, a person's antecedents may refer to a previous hospital order disposal. In such cases a defence solicitor is alerted to an illness at an early stage in the proceedings. If a defendant is unfit to plead by virtue of mental illness and found to have done the acts complained of then disposal in such cases is often a hospital order pursuant to section 37 of the Mental Health Act 1983. It is important to remember that when a court also imposes a restriction order pursuant to section 41 of the Mental Health Act 1983 there are occasions where a defendant will be detained for a longer period of time than if he/she had received a determinate prison sentence

When considering fitness to plead and the benefits of a finding of unfitness to plead the defence must be alive to the fact that mental illness is not the only disability that can prevent a defendant from being tried. The defendant may suffer from a severe form of learning disability or mental impairment that could lead to a finding of unfitness to plead. Mental impairment can take many forms and the criminal practitioner may not be qualified to recognise all or any of their manifestations. Brain injury can be the cause of mental impairment. Road traffic injuries and assaults are only some of the possible causes. Mental impairment is not always visible to the naked eye. In cases of childhood injuries an adult may not even recall the event that was causative. The defence are not routinely provided with a defendant's medical history and sometimes only a brain scan can confirm the full extent of trauma.

A further difficulty for the defence is that abuse of alcohol and/or drugs and general disorderly behaviour can mask the root cause of the problem. Also, a defendant may have previously had contact with the criminal justice system, stood trial and received custodial sentences and these factors can cause the judiciary to be sceptical of any attempt by the defence to raise the issue before them. These factors do not mean it cannot be done.

Where the defence instruct an expert it is vital to instruct registered medical practitioners. In order to find a defendant unfit to plead a Judge must have the evidence of two registered medical practitioners, one of whom must be approved under section12 of the Mental Health Act 1983. This would usually involve the instruction of consultant forensic psychiatrists. The medical practitioner must have expertise in the correct field. Many consultant forensic psychiatrists have expertise in the treatment of mental illness but not learning disability or mental impairment. In cases where there is learning disability or mental impairment psychiatrists often advise that further reports should be obtained from psychologists.

Opinions from psychologists often provide helpful support for the court. However defence solicitors should not instruct psychologists in the first instance unless, as is rare, the psychologist is a registered medical practitioner who meets the criteria laid down in the Criminal Procedure (Insanity) Act 1964

Mental impairment can be as significant as a clinical mental illness in deciding the issue of fitness to plead and the defence must take care when determining this issue. Injustice can result if a defendant stands trial and is cross examined in circumstances when he or she

may walk as they journey through life. They are taught that if they step off that narrow pathway for any reason, justified or not, they can expect the full weight of the state to come crashing down upon them and to the state to take away from them anything and everything they have ever had.

Regrettably, for most people in the UK, this threat of social annihilation is enough to keep them under the control of the state for ever. One cannot blame them of course but nevertheless, such reluctance to stand up for true justice in the face of democratised persecution does no one any favours.

Successive British governments have learnt that if they introduce enough criminal legislation, it is almost impossible for any citizen to take any meaningful action at all against the government or the state.

Certainly, marches and protests can be arranged but even those can only proceed if the police give their permission. When 1 million people walked through London in protest against Tony Blair's decision to go to war in Iraq, his government, like the present government, simply ignored them.

When the latest protests by public sector workers took place, trying to voice opposition to cuts in spending and state interference with agreed pension rights, once again the government simply ignored them and carried on regardless.

When the petition against IPP sentences was presented to Downing Street, it had little effect but as soon as the government realised how much money was being spent on what was probably the worst piece of criminal legislation ever introduced by Parliament, it decided to scrap IPPs but made very sure that those who are already subject to a sentence that Ken Clarke himself described as “a stain on British justice” would not be affected by the changes. They would still have to serve their sentences.

The idea of being fair to criminals, those who had stepped off that very narrow pathway prescribed at the moment of their birth, was simply too much to bear for David Cameron and his coalition administration.

The concept of justice was once again buried as deep as possible and in its place we saw the more politically acceptable figure of revenge, thus continuing to subjugate those who have now effectively been prevented from defending themselves against the state.

TheOpinionSite.org has often been criticised for being too pro-European and for standing up for the rights of prisoners and their families.

We make no apology whatsoever for pointing out yet again to a public that seems not to wants to hear the truth of what is happening in Britain now, today, is precisely what happened in Germany during the years leading up to the tyranny of National Socialism. This is not fantasy and the similarities can easily be checked by anyone who is prepared to spend a few hours on the Internet.

Britain locks up more people than any other country in Europe and has more life sentenced prisoners of one kind or another than all the other member states of the EU put together. France has about seven sexual offences on their statute book whereas Britain has over 70. In fact, Britain now has so much criminal legislation that almost any action undertaken by any citizen of the UK could, if it was so desired, be described in such a way as to make that action punishable by law.

It is a sad thing to say but nevertheless the truth, that the British people have sleepwalked their way into an oppressive, vindictive, police controlled state which now has a parliament full of representatives that are afraid to stand up and be counted for fear of criticism and what may happen to them.

Pre-war Germany had a parliament too but that didn't stop Hitler from voting himself more and more powers until finally he became the dictator that he was. He was elected per-

fectly legitimately through well-run elections and, once in power, extended the scope of criminal legislation and state control using the excuse of “public protection”, exactly the same technique that has been used in Britain for the last 20 years or so.

This cancer of control and revenge that has been introduced to British society is now so firmly embedded in the collective psyche of British people that everyone expects to have revenge upon anyone who offends them, even in the most minor way. It is hardly surprising therefore that the forces of law and order react in precisely the same manner.

As the country falls apart over the next 12 months with more and more disenfranchised people making their voices heard and perhaps even taking action in the streets, the heavy boot of the state will crush them into submission and probably put them in jail. No dissent will be permitted and the concept of “freedom” will be replaced by that of “protection”.

Don’t complain when it happens; you cannot say you have not been warned.

Cardiff Three: police corruption trial evidence found in south Wales

Steven Morris, Guardian.co.uk, Thursday 26 January 2012

Important documents thought to have been shredded by detectives, which led to the collapse of the multi-million pound Lynette White police corruption trial, have been found. Eight former police officers were found not guilty last month after it was claimed that the senior detective in charge of the case against them had ordered colleagues to destroy documents that could have helped prove their innocence. On Thursday, it emerged that the documents had not been shredded at all but had been discovered in boxes being held by South Wales police. The revelation will cause further embarrassment to the police and prosecutors, who have already been heavily criticised over the failure of the case.

Keir Starmer QC, the director of public prosecutions, has now asked the Crown Prosecution Service Inspectorate to examine the handling of the case. The Independent Police Complaints Commission is also investigating how South Wales police dealt with it. The trial of the eight officers and two civilians was the largest case of alleged police corruption ever brought before the British courts. It centred on an investigation into the murder in 1988 of Lynette White, a 20-year-old woman working as a prostitute in Cardiff.

Three men, Stephen Miller, Yusef Abdullahi and Tony Paris were convicted of her murder in 1990. Their convictions were quashed two years later and they were released. In 2003, Jeffrey Gafoor, a client of White's, admitted murdering her and is serving life. During last year's trial at Swansea crown court, eight former officers were accused of "acting corruptly together" to make a case against the so-called Cardiff Three. The prosecution claimed the accusations were "largely the product of the imagination and then the theories and beliefs of police officers". The trial was hugely complicated and beset with problems, many relating to the disclosure of documents. The prosecution is obliged to disclose certain documents even if they are not relevant to its case because they could help the defence.

At the start of December, the case against the 10 defendants collapsed and the trial judge, Mr Justice Sweeney, formally recorded not guilty verdicts. Sweeney said the trial had become "irredeemably unfair" because of the way the disclosure of documents had been handled. At Swansea crown court the most damning accusation against the detectives who probed their former colleagues was that the senior investigating officer, Chris Coutts, may have ordered documents to be shredded.

But the IPCC revealed those documents had been found. IPCC commissioner Sarah Green said: "The Independent Police Complaints Commission has now verified that the documents that the

Lynette White trial at Swansea Crown Court on 1 December, 2011 was told may have been destroyed have been discovered and were not shredded as first thought." The court was told that the documents related to complaints made to the IPCC by another man arrested but not convicted over White's murder. "It seemed these documents may have been shredded on the orders of senior investigating officer Chris Coutts," said Green. She said the documents had been sent in boxes by the IPCC to South Wales police in 2009. The documents had now been found in the original boxes.

"These boxes were still in the possession of SWP [South Wales police] and have subsequently been verified," said Green, adding: "The IPCC investigation has not yet concluded and will also need to establish what happened to these files of documents. We have of course informed the director of public prosecutions about the discovery of these documents."

One of the criticisms the police and prosecutors faced was their apparent inability to manage the hundreds of thousands of documents the case generated. The role of the IPCC may also come under scrutiny as it helped supervise the investigation into the eight former officers.

Alun Michael, the MP for Cardiff South and Penarth, said the reviews should "leave no stone unturned". "We need to know why things went wrong, why so much money was spent on the investigation and then it wasn't carried through."

A friend of one of the men originally arrested over White's death, who asked not to be named but spoke with the knowledge of the former suspect, said: "The whole thing gets more bizarre by the minute. Did this whole trial collapse because they lost a box or two of documents? It beggars belief. It would be laughable if it wasn't so depressing."

Starmer said: "Shortly after the collapse of this trial, I initiated a full and detailed review of the circumstances in which the decision to offer no further evidence was made. I asked leading counsel for the prosecution to prepare a comprehensive analysis of the reasons for the decision. I have now considered that analysis and as part of the review have decided to ask Her Majesty's Crown Prosecution Service Inspectorate, an independent statutory body, to consider the way in which the prosecution team conducted the disclosure exercise in this case."

The inspectorate will examine: • Whether the prosecution team [CPS and counsel] approached, prepared and managed disclosure in this case effectively, bearing in mind the history, size and complexity of the investigation and prosecution.

• Whether the prosecution team complied with their disclosure duties properly, including all relevant guidance and policy relating to disclosure, in light of the extensive material generated in this case.

• Whether the existing legal guidance is appropriate for cases of similar size and complexity.

A South Wales police spokesman said: "This is an ongoing IPCC investigation and, as such, it would be inappropriate to comment."

Are You Fit For “Fitness To Plead”? Lesley Manley, Barrister, 1 Inner Temple Lane Chambers

The concept of 'fitness to plead' is often a source of confusion. It is not solely a consideration of whether the defendant is actually capable of being arraigned on the indictment. The question to be addressed is whether a defendant is fit to enter a plea and stand trial. A person may have sufficient capacity to deny the allegation that is made and yet be unable to undergo the entire trial process. The defence should not overlook the possible benefits, where properly available, to a defendant of a finding of unfitness to plead. Where the issue of fitness to plead is raised it must be determined by a Judge. The defendant ought not to be arraigned before this issue is determined. If a defendant is found unfit to plead there is a further hearing before a jury to determine whether or not he did the act or acts alleged. If unsure, the defendant