grammes are simply not available or there is a lack of trained staff to provide them.

Napo, the probation union, says that as well as cell-blocking in overcrowded prisons, the cost every year to the Prison Service of holding the estimated 6,000 inmates beyond their release dates is about £15,000 each. (A prison place costs about £45,000 a year.)

Not surprisingly, this injustice has attracted the attention of lawyers, who are now happy to take on the cases of aggrieved prisoners on a no-win, no-fee basis. A decade ago prisoners found it extremely difficult to get any solicitor to represent them, but the latest issue of Inside Time, the prisoners' newspaper, carries more than 100 adverts from solicitors willing to pursue compensation claims. Last year the MoJ was forced to pay out almost £500,000.

Napo calculates that the average payout to prisoners is about £5,000 for a four-month overstay at Her Majesty's pleasure. It says the MoJ settles out of court because ministers realise they would lose if they contested the claim. As more and more prisoners hear through the grapevine that they have a legitimate claim, costs to taxpayers will soar even higher. In other words, the bill to the taxpayers for incarceration and compensation is far greater than the budget cuts which have caused the problems in the first place.

R v Dowds [2012] EWCA Crim 281 - Voluntary acute intoxication

The issue in this appeal is whether acute voluntary intoxication is now capable of giving rise to the partial defence of diminished responsibility on an indictment for murder. It is common ground that it could not have done so prior to the amendments to section 2 Homicide Act 1957 which were made by the Coroners and Justice Act 2009 (s 52). The appellant contends that those amendments mean that voluntary and temporary drunkenness may now give rise to diminished responsibility and thus reduce murder to manslaughter. That is because, it is said, acute intoxication is a "recognised medical condition" within section 2(1)(a) of the Homicide Act as amended.

Held: "We do not think that we should rule out the possibility that there may be genuine mental conditions, in no sense the fault of the defendant and well recognised by doctors, which although temporary may indeed be within the ambit of the Act. Whether concussio n, for example, is such a condition is a question which does not arise for decision in this case.

Nor do we attempt to resolve the many questions which may arise as to other conditions listed in either ICD-10 or DSM-IV. It is enough to say that it is quite clear that the re-formulation of the statutory conditions for diminished responsibility was not intended to reverse the well established rule that voluntary acute intoxication is not capable of being relied upon to found diminished responsibility. That remains the law. The presence of a 'recognised medical condition' is a necessary, but not always a sufficient, condition to raise the issue of diminished responsibility.

Voluntary acute intoxication, whether from alcohol or other substance, is not capable

Hostages: Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, 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, 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.

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

MOJUK: Newsletter 'Inside Out' No 360 (26/02/2012)

Unless you have donated or sent stamps - this is your last copy

CCTV – A valuable tool perhaps but what can be done to prevent prejudicial use?

Wrongly Accused Person, February 14, 2012

If you look for statistics on how many CCTV cameras there are in the UK you will find varying answers, all of which say it is a substantial number but the fact is no one really knows just how many there are. You'll see phrases like "The UK has 1% of the world's population but 20% of the world's surveillance cameras" while other figures estimate there to be some 1.85 million cameras – roughly 1 for every 32 people. The London Underground Network sports 11,000 cameras alone, or at least it did in 2009, there may be more now.

These are there allegedly for the detection and prevention of crime, and sometimes when used properly and responsibly they can yield useful evidence which is often used as a strong argument against any protests regarding things like invasion of privacy. The problem is, the evidence shows they are very often not used properly and responsibly but rather prejudicially and unfairly.

We don't need to look far for evidence which demonstrates that point. If you consider Danny Major's case, a serving police officer at the time of the alleged offence, was convicted of assaulting a detained person. Short clips of CCTV footage from within the station were used prejudicially against Danny at trial, which in fact were of no real consequence to anything, while at the same time he and his defence were told that no other relevant footage existed. There was in reality 13 hours of relevant footage which shows officers colluding and conspiring against him, one of which had at the time a history of violence and has continued with violent conduct since. It was later discovered that this officer had the victim's blood on his uniform, another claim which was denied at the time of Danny's trial. You would think his conviction would have been quashed by now, every plank of the case against him can now be discredited with evidence which had been withheld from him at the time of his conviction, including CCTV footage. Yet the Major family must continue their fight for justice because those who exist purportedly as a safeguard against miscarriages of justice, including the CCRC, have effectively rewritten the prosecution's case in order to accommodate the evidence which wasn't before the Jury.

Nick Rose was convicted of murdering Charlotte Pinkney, yet there were in the teens of witnesses who reported having seen her alive after the last possible time he could have done so. At least one of the areas she was said to have been seen was covered by CCTV, there may be more. Every witness, no matter how credible, no matter what their reason for being sure of the time and date they saw Charlotte are said to have been 'mistaken'. It had been claimed that there was no CCTV footage with Charlotte on it after they allege Nick killed her, yet there should have been CCTV footage which could confirm or deny the time and date of at least one sighting. So where is that footage now? As you would expect in a case where someone has always, and continues to, protest his innocence, when it was asked for it had been erased.

In 2008, Lee Mockble along with 2 passengers was driving through Birmingham on the day of a football derby. As he did, his car was attacked by known football hooligans. One of his passengers was injured by glass from the car window which had broken in the incident as evidenced by a trail

of his blood left on the street and pavement as he later fled being chased by members of the same group. The person who threw the projectile causing the injury had been seen doing it by a police officer who knew him by name and arrested him but not the others who were with him. Realising his passenger was bleeding heavily, Lee turned his car in an attempt to find paramedics but as he did his car came under attack by the other members of the group who came out into the road throwing bricks and waving sticks. He swerved to avoid the group on his side of the road but as he rounded the corner on the opposite side of the road he ran over another member of the same group who had fallen into his path and later died from his injuries. That is the account he provided that day, and it has not changed since. Action 77 in the police log states that there was no CCTV cameras which is marked not to be disclosed, yet the crime scene photos clearly show the signs which state the area is indeed covered, "keeping Birmingham safe". At trial the earlier incident was described as a silly isolated 'moment of madness' despite other items in the police logs marked not to be disclosed demonstrating that the group were very well known as being hooligans. It was claimed there was no later attack on Lee's car, no reason to swerve, no bricks being thrown yet there is damage to the car which could not have been caused either by the earlier incident or as a result of running over Mr Priest who had stumbled and fallen before the car went over him. There were 3 if not 4 cameras covering the scene, you would expect the CCTV footage to confirm or deny either account, yet there it is in the log, no cameras in the area and later accounts say instead that any cameras covering the relevant area were faulty. It must be one or the other, it can't be both, a camera that doesn't exist (even ignoring the signs which say the opposite) cannot be faulty. Strangely, as in Danny Major's case, there is nothing wrong with any camera or lack of availability of any footage which covers areas of no consequence to the prosecution's case and are not disputed.

On the 13th of January, the Huffington Post reported on the case of Alex Bryce, a Labour Researcher, who had been charged with assaulting and obstructing a police officer. The CCTV footage shown on their website shows something entirely different, yet despite requests from Mr Bryce's defence team the CPS refused to disclose it, the footage only being seen when the case called at court at which point the case was thrown out. According to the article, no CCTV footage is available of an earlier incident which the officers concerned claimed justified what appears to be their assault on Mr Bryce and his partner despite that incident allegedly happening at the gates of Parliament itself.

In August 2008, Sean Riggs became disturbed after suffering a breakdown, hostel staff made six 999 calls asking for him to be taken to a place of safety but the police refused to attend. He left the hostel and was later arrested and restrained. He died later the same day but his family were told there was no CCTV in the van which transported him, and that CCTV covering the police station yard is missing. However existence of CCTV cameras in the station yard appears only to have been acknowledged after Mr Riggs's family insisted on being shown around the station whereby they observed the camera for themselves. They were later told that the camera had been faulty since May of that year. More than 3 years later, Mr Riggs's family still haven't had an answer as to why he is no longer with them.

There are of course many, many other cases similar to one or more of those I've mentioned. These instances relating to CCTV are by no means rare as any cursory search on the internet will show anyone interested enough to look for it. CCTV may be a valuable tool in the detection and prevention of crime, but what can be done to prevent its prejudicial use? Is it really the case that a country so extensively covered by CCTV cameras has such an appalling record not only of maintaining the equipment but preserving pertinent evidence obtained from it?

about the prison than it did about the prisoners

Independent Advisory Panel on Deaths in Custody End of Term report February 2012

• In total, there were 5,998 deaths recorded for the 11 years from 2000 to 2010. This is an average of 545 deaths per year. • A total of 607 deaths were reported in 2000 compared to 512 in 2010 (this represents a 16% reduction between the beginning and the end of the reporting period). • Deaths of those detained under the Mental Health Act (MHA) and those in prison custody, account for 92% of all deaths in state custody, at 61% and 31% respectively.

The Panel have encountered frustrations along the way. A number of recommendations we made in relation to Article 2 compliant investigations and deaths of patients detained under the MHA, whilst accepted in principle by the Ministerial Board, have not been progressed as far as the Panel would have liked. Uncertainties over the future governance and commissioning for health and ongoing modernisation of the Care Quality Commission's Mental Health Act monitoring function make it difficult to implement suggestions for change to policy and guidance.

Review of the medical theories on restraint deaths

2.1. The government has a duty of care towards an individual in state custody - the right to life - which is enshrined in Article 2 of the European Convention on Human Rights (ECHR). Deaths following use of restraint by staff in custodial settings can be the most complex to examine, given the wide spectrum of medical and psycho-social reasons for such deaths. There has been significant debate in the medical community as well as in public and parliament. The Panel commissioned Caring Solutions (UK) Ltd and the University of Central Lancashire to undertake a review of the medical theories and research relating to restraint deaths in order to understand the physiological causes.

2.2. The report was published in October 2011 and represents a serious body of knowledge on why people die following the use of restraint . It evidences that certain groups are more vulnerable to risks associated with restraint – either intrinsically, or because they are more likely to be restrained. These groups are those with serious mental illness or learning disabilities, those from BME communities, those with a high body mass index; men age 30-40 years and young people (under the age of 20).

3.1. The Panel recognises that delays to inquests have an enormous impact on the family and staff involved. It also frustrates the opportunity to learn lessons from deaths in custody. We heard directly from bereaved families about the difficulties caused by unexplained delays to inquests, which places great emotional stress on them.

Time is Money (Private EYE, No.1308, 24 February – 8 March 2012, p30)

In these times of budget cuts and austerity, the Prison Service and Ministry of Justice are wasting a staggering £90m-plus a year by keeping inmates in jail long after their release dates.

Delays have been caused by a shortage of staff and resources; and by files, faxes and paperwork going missing, causing a backlog of cases waiting to go before the parole board.

Problems have been exacerbated by a sharp increase in the number of prisoners who are immediately recalled to jail for breach of bail or other release conditions. They remain incarcerated often for months beyond their next release date simply because the paperwork is not completed.

Over the past ten years the number of offenders being recalled to prison has soared from 2,437 to 16,057 a year — more than a six-fold increase. In addition, more than half the 6,000 people a year serving indeterminate sentences are not freed by their recommended release date (their tariff) because they have not completed necessary rehabilitation programmes. Sometimes the pro-

coroner for Nottinghamshire, Martin Gotheridge, told them to disregard the notion that removing the teenager to hospital on the night of his death might have saved him.

This was a point of contention as one of several scenarios, drawn up by a medical expert for inquest, suggested that had Mr Staples been removed directly to hospital on arrest, the cocaine could have been removed. The quantity of drugs in Mr Staples' body after the packet burst were "unsurvivable," Mr Gotheridge said. "Reece was doomed to die in any event."

The teenager's family, represented by solicitor Ruth Bundey, expressed dismay at the police conduct. "Police officers who arrested Reece ignored his plea that he was dying from drugs that had burst in his stomach. Incredibly, all four, without one word of discussion between them, chose in isolation to disbelieve what he told them. They failed to call an ambulance at the roadside, or, five minutes later, to inform the custody sergeant, in whose care he was to be placed, of what he had said. Three and a half hours later, Reece collapsed in a police cell and died from cocaine intoxication. "Thus the officers eliminated at a stroke the possibility of Reece's survival through hospital treatment and surgery. Had he only received medical help, at least he would have had a fighting chance of life.

"Deborah Coles, co-director of the charity, Inquest, added: "Reece Staples died an extremely disturbing death which was exacerbated by officers' failure to believe Reece and act on the notable deterioration in his emotional and physical health. The message to all police officers arising from this tragic case is that immediate medical attention must be sought where someone informs you they have taken drugs or you suspect they have. This is a vital safeguard where the saving of lives is paramount."

The inquest has concluded three weeks after The Independent and Bureau for Investigative Journalism found that the number of deaths in police custody – 15 in 2009, 21 last year – has been understated. The 2007 guidelines which should have led to Mr Staples being taken to hospital alluded to Christopher Alder, who also died on a police station floor, 14 years ago. After a mix-up of bodies, Mr Alder was only laid to rest two weeks ago.

Nottinghamshire Police issued new guidelines last September stating that suspects who say they have swallowed or concealed drugs must be taken immediately to hospital. The force's Assistant Chief Constable, Paul Broadbent, apologised at the inquest for the delay in staff training which he said was "unfortunate" and "regrettable".

Report on an unannounced full follow-up inspection of HMP Manchester

Inspectors were concerned: - level of self-inflicted deaths has been too high for too long - There had been seven self-inflicted deaths since the beginning of 2009, five of them since our last inspection in July - There was a degree of fatalism in the prison's response – that was the way things were in Manchester

- the prison needed to ensure lessons were learned from previous cases of deaths in custody (both at Manchester and elsewhere);
- arrangements for caring for prisoners at risk of self-harm were not poor, there was room for improvement;
- for the small number of prisoners held in the segregation unit for long periods, the regime was poor and there was little opportunity for education or other activities; and
- some diversity work was underdeveloped and under promoted.
- prison appeared to have failed to identify many men with a disability and even where needs had been identified, support was inconsistent or not followed through
- no prisoner had identified themselves as gay, bisexual or transgender –which said more

Or is it like the diaries in Eddie Gilfoyle's case or the "missing" documents which caused the collapse of the trial against officers for alleged police corruption – faulty, missing, destroyed but actually available in reality? If it is the latter, then the often claimed non-existence of CCTV evidence which is supposed to be there to protect us all, is in fact evidence of widespread national corruption at all levels of a justice system proclaimed to be the best in the world. CCTV evidence has become more of a threat to the civil liberties of the innocent at risk of wrongful conviction than it ever could be for the genuinely guilty.

Bullingdon Prison chiefs censured over cell death Wesley Johnson, Indpendent, 14/02/12

Prison chiefs have been censured over the death of a father of eight found hanging in his cell, the Health and Safety Executive (HSE) said today. Danny Rooney, who was known as John Hughes, was found dead at Bullingdon Prison in Oxfordshire while awaiting sentencing for burglary on September 26 2006. He was put in a so-called "safer cell" after being found with a noose around his neck, but the cell had been modified to include shower rails offering ligature points, the HSE said. Rooney, 38, was in the cell for just 40 minutes, during which he was checked by staff three times, before he was found hanging with a ligature fixed to the shower rail support bracket.

Rooney, from Hollow Way in Oxford, was part of the travelling community and had been on remand for burglary for 15 days when he was found hanging the day before his 39th birthday. His widow Ann said: "It has been a very hard fight from the start to find out what happened to Danny and for the prison to accept that they did wrong. I still don't think we have the full picture but I hope this case at least stops other families from going through what we have."

The National Offender Management Service (Noms) was criticised after the HSE found the brackets should have been attached to the wall with weaker fixings that would not have supported the ligature used by Rooney. But it has not been possible to prove "when the shower rail was installed, who installed it, who authorised its installation or who checked it had been fitted in an appropriate way in a 'safer cell"', the HSE said.

Carolynn Gallwey, of the family's solicitors Bhatt Murphy, welcomed the censure but added: "This case also emphasises the need for timely and unflinching investigations into custodial deaths, which are capable of earning the trust and confidence of the bereaved family. It should not be left to them to shoulder the burden of trying to find out what happened to their loved one."

Heather Bryant, director of the HSE's southern division, said: "This was an unnecessary tragedy and shows that all refurbishment programmes need to be adequately controlled. The standard in this cell was far below what is appropriate for those vulnerable prisoners in a safer cell." Matthew Lee, the HSE's investigating inspector, added that Noms "should have had a more robust system for ensuring the risk was adequately controlled at HMP Bullingdon". Staff on duty at the prison at the time of the death were clearly under the impression that they had placed Mr Rooney in a safer cell which, so far as was possible, was ligature free," he said.

A Noms spokeswoman said: "The death of Mr Rooney was a tragedy, our sympathies are with his family and friends. Since Mr Rooney's death there have been significant developments in the Noms policy for the care of prisoners who are at risk of suicide and/or self-harm, including guidance on the use of safer cells. Work has also been undertaken to raise awareness of the importance of maintaining the integrity of safer cells." She went on: "Noms strives to learn from all deaths and cascade that learning across the prison estate. In particular, Noms learns from both the Prisons and Probation Ombudsman report and from the coroner's inquest. We will fully consider the censure issued by HSE and ensure that the issues raised by them have been addressed."

Will the Prison Officers ever let go?

Since the 9th November 2011 the day Kevan Thakrar was acquitted by a jury of his peers of attacking three prison guards; prison officers have been calling for a retrial. Over 4,000 people have signed a misleading online petition calling for the retrial of Kevan. 56 serving prison officers, 1 serving prison governor and 1 serving police office, have publically signed the petition. Accusations of jury nobbling in the trial began to circulate in January, an investigation by CPS/police found there were no grounds whatsoever to indicate there had been any interference But who started the rumours, leave it up to yourselves to guess who!

Media in the north of England, Chronicle / Journal / Sunday Sun/The Advertiser/Sunderland Echo, have been relentless in promoting the prison officers. All have been written to, giving Kevan's side of the story, using only court transcripts, not one of the papers has printed a single line.

Many of the papers, showed pictures of injuries the prison officers had received; but when they were sent pictures of brutal assault on Kevan for publication, publication was refused on the grounds that the pictures were too horrific!

Kevan feels strongly that the hostility of serving prison officers and the constant media witch-hunt is preventing his progress out of the notorious Close Supervision Centre at HMP Woodhill. Kevan has requested that his letter below should be distributed far and wide.

Kevan Thakrar - Jury Verdict Must Stand - Self Defence is No Offence

Following my unanimous Not Guilty verdict at Newcastle Crown Court for attempted murder x 2 and GBH section 18 x 3 against Frankland prison staff, by a jury of 12 white British members of the general public, I have been hearing a lot about how this was due to me suffering from Post-Traumatic Stress Disorder.

Although it is correct to say that due to the serious gang attack I sustained whilst on remand at HMP Woodhill on 31 May 2008 that I do indeed have PTSD, the reason why I am innocent of any assault on Frankland prison staff is because I acted in self-defence.

Had I not defended myself, I would have suffered life-threatening injuries in a pre-planned racist attack. Staff at Frankland had taken exception to the assistance I was providing to victims of assault by staff in the segregation unit and decided my time was up. How dare I report staff criminality to the police!

The actual tipping point came when I wrote to Durham MP Roberta Blackman-Woods. I asked for her assistance in putting a stop to the racial attacks by staff and culture of criminality which was being covered up by a code of silence. The help Roberta Blackman-Woods MP gave me was to send a copy of my letter to the governor of Frankland (thank you…) who then had enough.

Unfortunately I was still almost killed after I defended myself. The Durham police have attempted to cover this up and I am yet to see any of the media report these real facts.

The Prison Service, which feels embarrassed by this whole situation, has kept me locked away in the isolation unit of the Close Supervision Centre at HMP Woodhill. For two years now, the psychological warfare has included stopping all communications to friends and family through mail and phone, and non-stop aggression. I am an innocent man, wrongly imprisoned in the first place, and proven to be innocent of the false allegations made by corrupt prison staff - am I really worth £250,000 of taxpayers' money?

I am sure everyone can understand my safety in prison from corrupt, criminal prison staff is now much harder to ensure. It must be difficult for Prison Service management to find a safe location for me to progress through my wrongful sentence, so I wait with anticipation to see

Britain's obsession with criminals and its almost insatiable lust for locking people up will eventually be its downfall if measures are not taken to seriously address the current situation quickly.

As ministers do nothing other than produce more and more laws to break, so the UK will continue to have the unenviable reputation of being the country in the EU which locks more people up than any other, has more life sentenced and indeterminate sentenced prisoners than all the other countries of the EU put together and now allows minor errors made as a child to prevent people from working, paying taxes and contributing to the community.

To their shame, history shows that the British have always loved to persecute others. Now that no other country takes Britain seriously any more (can you blame them?), it seems that the only course left for our rulers is to persecute their own people.

So much for democracy and a 'fair and just' society.

How did a promising footballer die in agony in police custody?

Family asks why warning that 19-year-old had swallowed drugs packets went unheeded

Reece Staples had good reason to believe that 2009 would be the year he might set the football world alight. After taking his prodigious talents to Nottingham Forest, the expectation that he would soon feature in the first team saw him selected among the club's players for the Fifa 2009 Play-Station game. He died before the year was half out. The 19-year-old was a victim of the struggle to adapt when he failed to make the grade but also, an Independent Police Complaints Commission (IPCC) inquiry found yesterday 20/02/12, a victim of Nottinghamshire Police's failure to take appropriate care of him in custody.

Mr Staples, who was on Notts county's books before joining their neighbours Forest, began his descent when the club released him at the start of the 2008/9 season. His girlfriend persuaded him to fly with her to Costa Rica in June 2009, to swallow packets of cocaine to bring to the UK. One of at least 18 packets which he swallowed burst in his stomach – leading to bizarre behaviour and his arrest, 24 hours after he returned.

An inquest into Mr Staples' death, which concluded yesterday, heard how he told his arresting officers, in Nottingham, that he had "swallowed some coke," had just returned from Costa Rica and that he was "going to die". Police guidelines, introduced five years ago, state that anyone suspected of swallowing drugs must be immediately taken to hospital. But the officers, one of whom assumed that Mr Staples' reference to "coke" meant the soft drink, did not believe his comments. Three and a half hours later, he collapsed in a police cell, suffering from acute cocaine intoxication. He had pressed the cell's emergency buzzer 15 times, been given water and a blanket but died, in a convulsed state, on the floor.

The IPCC concluded that the officers had "failed to provide... an appropriate level of care" and found they had not taken Mr Staples' comments seriously and neglected to ensure the information he gave them was passed on to Oxclose Lane police station, where he was detained. Once there, half-hourly checks on Mr Staples were not carried out with appropriate vigour. The IPCC also found that the Nottinghamshire force did not inform Mr Staples' mother, Clair Dunne of his death quickly enough. It took them seven hours.

An internal Nottinghamshire Police investigation into Mr Staples' death found the five officers who handled him – PCs Neil Haynes, Dominic Bramley, Ben Hensell and Iain Blackstock, and Sergeant Joe Wilson – guilty of misconduct, though not the more serious charge of gross misconduct, which could have seen them dismissed. All received final written warnings instead.

The inquest jury returned a misadventure verdict into Mr Staples' death after the deputy

The case illustrates the nightmare that the CRB system has become. Essentially, if you have any cause to be formally warned or reprimanded by the police when you are a child 10 years of age or older, that will constitute a criminal record for the purposes of CRB checks and could possible prevent you from ever working, obtaining insurance or even potentially disallow you from volunteering.

The Claimant also sought to challenge the lawfulness of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 – which removes, in certain circumstances, the protections concerning spent convictions. This claim failed for the same reasons. Kenneth Parker J added this notable observation:

"In these circumstances I do not believe that there is any real independent issue about the legality of the Order under Article 8 ECHR. The conclusion must be the same. However, I should perhaps add that the reverse argument does not necessarily apply. In other words, even if it were disproportionate under Article 8 ECHR for the state to disclose, say, a warning long ago given to a child for a minor criminal matter, it would not automatically be an infringement if the state permitted a private employer to enquire about all criminal convictions, to insist on truthful answers and to take appropriate action in response to the answers given."

It would seem that despite the government's proposed limited and cosmetic changes to the Rehabilitation of Offenders Act and CRB regime, there is still no place for common sense.

Given that the UK has so much Law and that it is almost impossible now to go through life without falling foul of it somewhere along the way, the inevitable conclusion will eventually be that whole swathes of the population will be branded as criminals for ever. Whilst this may afford the present and successive governments some short term gain, it is almost certainly not in the best interests of society as a whole.

It is, according to official figures, already the case that 30% or more of all working age men have a criminal record of one sort or another. If when a CRB check is carried out every warning and reprimand is to be revealed as well as every offence, that percentage will increase significantly and very rapidly.

What is even more ridiculous, as TheOpinionSite.org has pointed out on many occasions, is that CRB checks were introduced in the wake of the Soham murders in an attempt to protect children and vulnerable adults from so-called 'stranger danger'. The result instead has been to create vulnerable, unemployed individuals who are prevented from living what most people would regard as a 'normal' life, often as a result of some infraction of the law that took place very many years previously.

Although the judge in this most recent case was clearly unhappy at having to dismiss the application against the CRB certificate, he stated that his hands were tied by the law. However, he did go on to say: "… a system that allows no exceptions imposes a very heavy cost in terms of effect on the fundamental rights protected by Article 8 ECHR. I am not persuaded that the marginal benefit that a system which admits no exceptions brings to, admittedly important, competing interests is justified as a matter of proportionality when the serious detrimental effects of such a system, particularly on child offenders, are weighed in the balance. A system that permitted exceptions would probably be more prone to error, but only marginally so if the criteria for review were themselves conservative and risk averse. The consequential improvement to the protection of Article 8 rights on the other hand, would be likely to be substantial."

TheOpinionSite.org believes that the government should take heed of this warning or risk having to rule over a nation of branded criminals. Whilst such a prospect may previously have been thought of as being ridiculous, the fact is that such a situation is appearing in reality.

Mr Justice Parker was clearly unhappy at the present situation; unhappy enough in fact to grant the student leave to appeal.

where they will move this innocent man to.

It is a sorry state of affairs made worse by the pathetic lies coming from the corrupt prison officers' camp in order to increase the possibility of compensation. Surely the time has come for the oppressors to give up with their unjust acts and recognise that the 12 members of the jury saw the truth. The time has come to move on and learn from mistakes made on all sides; attempts to spin more lies, half-truths and misrepresentations to cover up the racist, sadistic nature of the Prison Service institution help no-one.

The jury were unanimous: I acted in lawful self-defence using reasonable threat against the threat posed. The way forward is to seek to eliminate that threat so no other prisoners have to experience the torture and no innocent bystanders get burned by the fire which the corrupt staff continue to fuel. A 'rehabilitation revolution' can never occur until an independent body is tasked with rooting out these problems and is paid for every corrupt official exposed.

Stop the rhetoric; it's 2012 - let's step into the future, not fall back into the past.

Kevan Thakrar, A4907AE, HMP Woodhill, Tattenhoe Street, Milton Keynes, MK4 4DA

Lost in translation - Court chaos follows interpreter change Sarah Bell, BBC 13/02/12

The government is hoping to save £18m a year by changing how interpreters are provided for court hearings - but it is said the new system is causing chaos and costly delays.

A suspect charged with perverting the course of justice is told they are accused of being a pervert. Another is told that being charged means they have to give the police money. Two incidents cited by those opposed to the new system.

Courts in England and Wales previously hired freelance interpreters from a national register. Now they are provided by a single agency, Applied Language Solutions (ALS), which has promised to cut the annual £60m translation bill by a third. While the company says despite some "teething troubles" it is operating well, 60% of the 2,300 of those on the National Register of Public Service Interpreters are refusing to work for it after their pay was slashed.

Previously they received a flat fee of £85, a quarter-hourly rate after three hours, and were paid for travel time and expenses - but this has been replaced by hourly fees in three tiers of £16, £20 and £22 plus no travel time and reduced expenses.

In some cases, an interpreter's pay would be halved for the same three hours of work, while those who used to travel long distances to assignments could be out of pocket. For example, one Lithuanian interpreter who regularly travelled to Devon from Surrey and used to get £246 for a day's shift would now be £65 down after travel costs.

Some fear the change could have more damaging consequences. The interpreters' membership body, the Professional Interpreters Alliance, says the boycott is forcing ALS to employ people with little experience of the legal system. "We are already hearing horror stories from all over the country. Being a court interpreter is a specialised and difficult job. You have to be accurate as people's liberty is at stake," director Madeleine Lee said. There is a huge demand for interpreters to help defendants, witnesses and victims understand the legal system. I represented a Polish Roma woman who was attending for the second time. She speaks no English at all. On the first occasion, no one had thought to arrange an interpreter, although one had been provided police station, and her case had to be adjourned. Shortly after I arrived at court the usher showed me a fax from the court office indicating that the interpreter organisation could not provide a Polish interpreter at all. As the chairman of the bench remarked, we could probably find several on the High Street. Fortunately, the defendant had brought a cousin who spoke English.

John Storer, a solicitor for a firm in Boston, Lincolnshire, says 20% of the local population are migrant workers, meaning 20/25% of his clients do not speak English. "We rely on interpreters for cases from murder to motoring offences," he said.

Since ALS took over at the beginning of February, solicitors, translators and magistrates across England and Wales have reported numerous cases of interpreters failing to attend, not speaking the right language and not accurately translating proceedings. In one case, a Lithuanian man was in custody for theft on a Monday, but as no interpreter was present he was remanded without a bail application as his solicitor simply could not get any information from him. He was eventually dealt with on a third occasion, a week later.

One of the PIA interpreters listened to part of the interpreting during the cross-examination of the defendant and the closing speeches in a case at a crown court, which they described as "very vague and incomplete".

They reported: "I would say one fifth of what was being said in court was interpreted to the defendant. At one stage the interpreter, instead of interpreting what the judge was saying, was telling the defendant that she thought the judge was nice and sympathetic towards the defendant's case."

Richard Bristow, chair of the West London bench of magistrates, said the cost of sending defendants back to custody when interpreters failed to show could mean the change was a false economy. "I had a case where the interpreter didn't turn up and I was stuck between a rock and a hard place. It's not right to proceed when the chap doesn't really understand what's going on, but it's also not very just or fair on him to put it off for another day and leave him sitting in a cell overnight while we get an interpreter," he said. On top of that there are all the other agencies, because it's not just the defendant, it's the police, the probation, the defence, the CPS; they are all incurring costs because there's no interpreter there."

Rebecca Niblock, a solicitor specialising in extradition cases, said it could pose problems for the justice system further down the line. "There is inevitably bound to be appeals as it's fundamental that people understand what is said, not just in court but in speaking to their lawyers. It's not just their presence that is required but their input, whether they are pleading guilty or not guilty - if there's any uncertainty over what's said that leaves the door open to appeals."

Mr Storer said his firm would employ freelance interpreters using Legal Aid money if it was not satisfied with the standard of ALS interpreters. "Good interpreters save money as can speed things up, they are fully aware of the legal process, they know exactly what to do and what's expected of them and they just get things done," he said.

Mike Jones, Chairman of the Criminal Law Solicitors' Association, said he was concerned by what his members were telling him. "Accurate interpretation is absolutely essential to the operation of the criminal justice system in the police station, magistrates' court and crown court," he said. The Ministry of Justice said it was closely monitoring the operation of the new contract and working with the contractor to ensure it worked as effectively as possible.

An ALS spokeswoman said 3,000 interpreters are registered with the company, who are then vetted for their qualifications and undergo independent assessment. "The service was rolled out nationally less than two weeks ago and has been operating well, although there have, inevitably, been some teething troubles," she said. "We are closely monitoring the service, will investigate any complaints made about the system and make changes and improvements as necessary. Assigning qualified and experienced linguists to assignments and insisting on continuous professional development, while reducing operational inefficiencies, remains the focus of our service."

Police officers failed in duty of care when 19-year-old Reece Staples died in custody

An inquest jury at Nottingham Coroners Court today returned a 'misadventure' verdict following an inquest held into the death of 19-year old Reece Staples in police custody in June 2009. Speaking on behalf of the family at the conclusion of the inquest, their solicitor Ruth Bundey of Harrison Bundey Solicitors, Leeds, said: "Police officers who arrested Reece ignored his plea that he was dying from drugs that had burst in his stomach. Incredibly, all four, without one word of discussion between them, chose in isolation to disbelieve what he told them. They failed to call an ambulance at the roadside, or, five minutes later, to inform the custody sergeant, in whose care he was to be placed, of what he had said. Three and a half hours later, Reece collapsed in a police cell and died from cocaine intoxication. Thus the officers eliminated at a stroke the possibility of Reece's survival through hospital treatment and surgery. Had he only received medical help, at least he would have had a fighting chance of life."

The Independent Police Complaints Commission (IPCC) today released the findings of its investigation into his death. The IPCC report says officers did not take Staples seriously when he told them he had swallowed the bags of drugs, and failed to seek medical attention or pass the information on. Five officers were charged with gross misconduct which was found proven and they received final written warnings from Nottinghamshire Police suspended for 18 months.

Deborah Coles, Co-director of INQUEST, said:

"Reece Staples died an extremely disturbing death which was exacerbated by officers' failure to believe Reece and act on the notable deterioration in his emotional and physical health. The message to all police officers arising from this tragic case is that immediate medical attention must be sought where someone informs you they have taken drugs or you suspect they have. This is a vital safeguard where the saving of lives is paramount."

Once a Criminal - Always a Criminal

CRB check appeal fails over police warning given when aged 11

By Raymond Peytors - theopinionsite.org

A young man appealing against the contents of an Enhanced Criminal Records Certificate (ECRC) – a CRB check - which revealed a police warning given to him when he was just 11 years of age, has failed in his High Court appeal against it.

TheOpinionSite.org suggests that this 'one strike and you are out' system is creating a whole underclass of citizen whose entire lives may be affected by a silly mistake made as a young child. It also smacks of an uncompromising and authoritarian regime.

Justice Kenneth Parker giving judgement in R (T) v (1) Chief Constable of Greater Manchester Police, (2) Secretary of State for the Home Department (Secretary of State for Justice an interested party) [2012] EWHC 147 (Admin).

In July 2002, the Claimant was 11 years old. He received a warning (a private procedure, under the Crime and Disorder Act 1998) from Greater Manchester Police for the theft of two bicycles. His subsequent conduct was apparently exemplary. By section 113B of the Police Act 1997, Enhanced Criminal Record Certificates (ECRCs) must contain all convictions, cautions and warnings. The Claimant, a 20-year old student applying for a sports studies course, obtained his ECRC in December 2010. It contained details of the bike theft warning.

He argued that the inflexible requirement under the 1997 Act for all convictions, cautions and warnings to be disclosed in ECRCs was incompatible with Article 8 of the ECHR.

The attorney general was only consulted in the final 'clearance processes', the DPP wasn't and the CCRC did 'not appear to be involved at all'. Neither the views of the government's chief scientist, Sir John Beddington, and the Home Office chief scientist, Bernard Silverman, were taken into account. "This is unsatisfactory and unjustifiable given the impact the closure of the FSS could have on the work of the criminal justice system," said the MPs.

They were in no doubt as to the reasons for shutting down the FSS labs. "The impacts on research and development, on the capacity of private providers to absorb the FSS's market share, on the future of the archives and on the wider impacts to the criminal justice system appear to have been hastily overlooked in favour of the financial bottom line."

Nor were they impressed by the claim that the FSS was losing £2m a month ".... not the full story," the MPs said, explaining that the figure did not take into account expected savings from the transformation, nor potential further declines in business and, while some monthly losses may have been £2m, the average monthly loss over the past year was lower.

The fear is that the ongoing marketisation of forensics will inevitably lead to loss of quality. Alastair Logan predicts a proliferation of what he calls 'toy labs' where work done quickly, cheaply and without quality checks (such as ISO 17025) as police respond to their own pressures to cut costs. "One has only to recall the handling of exhibits in the Stephen Lawrence case to know how poor training and understanding affect the detection of crime," Logan reflects.

Nigel Hodge is a forensic scientist and former reporting officer at the FSS's Chepstow lab. He believes that scrapping the FSS will undermine the development of a sector previously bolstered by the public service ethos of the FSS. "While individual forensic scientists may be primarily concerned with issues relating to justice, the companies that employ them are driven by commercial motives: maximisation of profit, increasing market share, brand identity etc," he reckons.

Then there is what Hodges calls "the whole business of trade secrets" where a forensic services provider develops a new technology this puts him at a competitive advantage. "There is a danger of a 'black box' situation developing where information is put into a system by forensic scientists, and 'evidence' pops out of the other end but where no one really knows what goes on in between." Forensic science shouldn't be like "a secret recipe for fried chicken", he adds. Quite.

Mexico drug gang warfare leaves 44 dead in prison near Monterrey

A fight between prison inmates associated with rival drug gangs killed 44 inside a jail near the city of Monterrey in the state of Nuevo León. Victims were stabbed, stoned and beaten to death with bars. The prison, in the municipality of Apodaca about 140 miles from the border with Texas, houses inmates associated with both the Gulf cartel and their bitter enemies in the Zetas cartel. The two groups have been involved in bitter turf wars in north-east Mexico for the past two years.

Honduras prison fire kills over 300 people

Trapped inmates screamed from their cells as a fire swept through a Honduran prison, killing at least 300 inmates. Some 475 people escaped from the prison in the town of Comayagua and 356 are missing and presumed dead, said Hector Ivan Mejia, a spokesman for the Honduras Security Ministry. Comayagua fire department spokesman Josue Garcia said he saw "horrific" scenes while trying to put out the fire, saying inmates rioted in attempts to escape. The prison fire, the world's deadliest of the past decade, was believed to have broken out around 10.50 pm Tuesday (0450 GMT Wednesday 15/02/12). Investigators were looking into whether it was caused by an inmate or by a short circuit.

R v Ben Caven [2011] EWCA Crim 3239 - Appeal allowed.

Appeal on the ground that because a s20 alternative verdict was not left to the jury, the conviction of the s18 offence was unsafe.

The appellant was convicted of causing grievous bodily harm with intent contrary to section 18 of the Offences Against the Person Act 1861. The case was put on the basis of a joint enterprise and the co defendant was aquitted. The issues for the jury had been whether the appellant might have been acting in self-defence or, if not, whether the appellant took some part in the attack against the complainant with the intention of causing him really serious bodily harm.

Before the Recorder gave his directions to the jury he sought the opinion of counsel for the Crown and of the defence as to whether or not an alternative verdict of guilty contrary to section 20 of the Offences Against the Person Act 1861 should be left to the jury. Both the prosecution and defence counsel indicated that they did not want the alternative verdict to be left to the jury and the Recorder acceded to this view. Therefore, no alternative verdict was put to the jury or dealt with in the course of the Recorder's directions.

It was submitted on behalf of the appellant that, in the light of the leading authorities, this was an error on the part of the Recorder (R v Coutts [2006] 1 WLR 2154 and R v Foster and others [2008] 1 WLR 1615.

The statutory basis for possible alternative verdicts in relation to trials on indictment is provided for in section 6(2), (3) and (4) of the Criminal Law Act 1967. Section 6(2) relates to indictments for murder. Sections 6(3) and (4) relates to offences, other than treason or murder, tried on indictment.

'The general principles to be derived from R v Coutts and R v Foster are, so far as this appeal is concerned, as follows:

(1) before any requirement to leave an alternative verdict to the jury arises, that alternative verdict must be "obviously" raised on the evidence. The alternative verdict must suggest itself to the mind of "any ordinary knowledgeable and alert criminal judge"; see Coutts at paragraph 23, Foster at paragraph 54.

(2) That test will generally only be passed if the alternative verdict is one to which a jury could reasonably come; which must mean that the alternative is one which really arises on the issues as presented at the trial.

(3) There is no duty to put an alternative verdict if such a verdict would be remote from the real point of the case.

(4) However, each case must depend on its particular facts.

(5) The evidence, disputed and undisputed, and the issues of law and fact to which it gives rise, must be examined; see Foster at paragraph 61. A judge will not be in error if he decides that a lesser alternative verdict should not be left to the jury if that verdict can properly be described in its legal and factual context as trivial, or insubstantial, or where any possible compromise verdict would not reflect the real issue in the case; see Foster at paragraph 61.

(6) Where the defence to a specific charge amounts to the admission or assertion of a lesser offence, the primary obligation of the judge is to ensure that that defence is left to the jury. If it is not, then the summing-up will be seriously defective and the conviction unsafe.

(7) A judge may have to reconsider a decision not to leave an alternative verdict to the jury in the light of any question which the jury may see fit to ask; see Foster at 61.

(8) At all stages the judge has to ask the question: will the absence of a lesser alternative verdict oblige the jury to make an unrealistic choice between the serious charge and a complete acquittal in a way which would unfairly disadvantage the defendant, see Foster also at 61. We empha-

sise that these are principles, not tramlines, and that each case depends upon its particular facts'.

Held: It seems to us that, taking all the relevant factors into account, the Recorder's first instinct, which clearly was to consider putting an alternative verdict to the jury, was the correct one. We think that the verdict was unsafe because, on the facts of this case, we think it did or may have put the jury in a position of having to make an unrealistic choice between the serious charge under section 18 and an outright acquittal. This may have operated to the disadvantage of the appellant in this case. Appeal allowed

R v Aamir Sardar [2012] EWCA Crim 134 - Appeal allowed.

A reminder of the principles laid down in R v Popescu concerning the showing of Achieving Best Evidence (ABE) transcripts to a jury.

The only issue in the case was whether the complainant, N, had consented to sexual intercourse with the appellant.

The appeal was founded on the failure of both prosecuting and defence counsel and the Recorder to follow the principles relating to the circumstances in which transcripts of an ABE interview should be shown to a jury and the warnings to be given to the jury in the event that they are shown.

The principles which regulate the circumstances in which an ABE transcript should be shown to the jury and the directions which a judge should give to the jury, in the event that it is shown, have recently been considered and explained in R v Popescu [2010] EWCA Crim 1230. 11.

The first principle is that great care should be taken before a jury is shown a transcript of an ABE interview at all, even while a video is being shown, and that they should only be shown a transcript if there is "very good reason for it", such as the difficulty of following the interview without it [35] (see also Welstead [1996] 1 Cr App R 59 at page 69, cited at Popescu [24]).

The second safeguard identified by the court in Popescu is that the judge should warn the jury at the time the transcripts are given to the jury so that they are focussed on the recording of the interview rather than on the written word.

The third principle is that, save in "very exceptional circumstances", the transcript should be withdrawn from the jury once the evidence-in-chief has been given. It should only retain the transcripts during cross-examination if defence counsel requires those transcripts as an aid to cross-examination. There will be cases in which it is permissible to allow the jury to see a transcript if there are points defence counsel is seeking to make which cannot be followed (see Popescu [36]).

The fourth safeguard is that transcripts should be recovered once the witness has finished her evidence. The general rule is that the jury should not be given the transcripts again and, as a fifth rule, the jury should only be shown the transcripts again for a very good reason and the judge should rule as to whether there is such a reason [38].

The sixth and most significant rule. Only in exceptional circumstances should the jury retire with the transcripts. Usually that will only be if the defence takes the view that it is necessary for the jury to have the transcript and the judge is satisfied that there are "very good reasons" to justify that course (Popescu [38]).

In the instant case the jury did retire with the transcript of the ABE interview which had been treated as evidence-in-chief when neither counsel dissented.

The court identified serious errors both in letting the jury see the transcript, in letting them retain it, and in failing to direct to them as to the dangers of giving disproportionate weight to the transcript as opposed to their impression and assessment of the witness herself. It took the view that the appellant was deprived of safeguards essential to the fairness of his trial

An open and shut case *Jon Robins, guardian.co.uk, Thursday 16 February 2012*

Closing the Forensic Science Service will make miscarriages of justice more likely

Why should we expect a part of the criminal justice system to make money? That's a question being asked in relation to the growing concerns over the arrangements – or the lack of them – for the closure of the Forensic Science Service, which is due to take place next month.

Just to recap, the FSS is the biggest provider of forensic science services to police forces in England and Wales. It handles more than 60% of the forensic work ordered by the police, working on more than 120,000 cases a year and employing some 1,300 scientists. But ministers claim (and this is disputed) that the service is losing £2m a month.

Sir Alec Jeffreys, the inventor of DNA profiling, attacked the axing of the FSS for its 'unimaginative bean-counting mentality', and the New Scientist last week reported a LinkedIn survey which found that more than 75% of the 365 forensic scientists who responded thought the closure would lead to more miscarriages of justice. The government's reasons for shutting the service down are set out in this October 2011 report.

Since the early 1990s, the FSS has made a difficult transition from executive agency of the Home Office to commercial entity. The FSS was reborn as a 'GovCo' (government-owned, contractor-operated body) in 2005 in a move towards becoming a public private partnership, and in 2008 it was backed by a £50m government loan as part of its transformation.

Alastair Logan OBE, the lawyer who represented defendants in the Guildford Four and Maguire Seven cases, has written about his fears for the survival of the FSS archive, which contains case files and retained material from some 1.5m cases. "The government declines to say what will happen to it as they are seeking a financial solution that does not require government funding – they call it 'examining the business case'," he argues.

The preservation of the archive in its current form is apparently another luxury that we can't afford. "The alternative is either destruction or the return of the material to the forces that provided it most of whom have no facilities for long term protection and preservation (even if they could afford it)," he argues. "The chances of the many cold cases that remain being resolved would be negligible and a large and irreplaceable collection of evidence will be lost."

The Criminal Cases Review Commission, the independent organisation set up to investigate alleged miscarriages of justice, has argued that closure would "undoubtedly lead to miscarriages of justice not being corrected" and "the consequent loss of confidence in the criminal justice system".

The CCRC has sweeping powers (under the Criminal Appeal Act 1995, section 17) to obtain material held by public bodies - that includes materials and samples held by the FSS. The section 17 powers don't extend to private bodies. In evidence prepared for the Commons science and technology committee, the CCRC reported that since 2005 it has requested that the FSS preserve or make available material on at least 150 occasions.

In the last few weeks, the CCRC has agreed for a clause to be included in the framework agreement governing the contracts for the provision of private forensic services which approximates the section 17 powers. "Obviously a contractual right is second best to a statutory power," notes case review manager group leader Matt Humphrey.

The science and technology committee's report was blistering in both its response to the arrangements for the wind up of the FSS, and the manner in which the decision to axe such an important service was made. The MPs reported a near complete failure to consult the views of anyone worth consulting (save for the Association of Chief Police Officers).