Immediately after the incident a senior police officer apologised to the individuals at the scene."

Early Day Motion 2857: Expert Witnesses in Family Court Proceedings

That this House notes the report by Professor Jane Ireland, commissioned by the Family Justice Council, in which she studied 100 expert reports from family court proceedings; further notes that 20 per cent. were written by people not qualified, a further 20 per cent. by people writing outside their knowledge and qualifications, 65 per cent. were `poor' or `very poor' and 90 per cent. were written by people who were not in current practice; recognises that this raises a massive question as to whether or not the judgments of the courts in the majority of care proceedings are reliable; and calls for a substantial further opening of the courts to enable the quality of evidence given to be subject to adequate real time scrutiny.

Primary sponsor: John Hemming, date tabled: 13/03/2012

R v Meeking, Court of Appeal 29 February 2012

The court ruled that the trial judge was right to conclude that pulling on a vehicle handbrake, whilst the vehicle was in motion, was 'interference' with a motor vehicle. The appellant had been convicted of manslaughter - the unlawful act being interference with a motor vehicle contrary to section 22(a) Road Traffic Act 1988. She had applied the handbrake of a vehicle being driven at 60mph, causing an accident in which the driver of the vehicle died.

Held: The handbrake is a 'mechanical part' of the vehicle and so applying it would amount to 'interference' for the purposes of that section. Interference is not confined to the exterior of a motor vehicle. The appeal was dismissed.

Met's restraint on autistic boy 'was not justified'

The Metropolitan Police subjected a severely disabled boy to assault, battery, degrading and inhumane treatment, false imprisonment and unlawful disability discrimination by forcing him into "shackles" at a swimming pool, a landmark ruling has found. The boy, known as Josh, who suffers from autism, epilepsy and learning disabilities, was forced into handcuffs and leg restraints during a school trip to Acton Swimming Baths in west London in September 2008 after he became fixated with the water and reluctant to leave. The use of restraint was "hasty, ill-informed and damaging" to the boy, who has a mental age of five, according to Sir Robert Nelson, the High Court judge, who found that the restraint was "neither lawful nor justified".

The judgment, which awarded Josh £28,500 in compensation, is the first in which police officers have been found guilty of subjecting a member of the public to unlawful disability discrimination, and inhumane and degrading treatment contrary to the Human Rights Act. It is deeply

Hostages: Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Gary Critchley, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran 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 363 18/03/2012)

Graham Coutts - Wrongful Conviction

My name is Graham Coutts. I have been wrongfully convicted of the same murder twice, and have been imprisoned since April 2003.

On 14th March 2003, Graham Coutts was involved in a consensual act of asphyxia sex (otherwise known as Breath Control Play or BCP) with a female friend who he had known for nearly 5 years. She died accidentally during this sexual activity.

Graham went on to cover up her death for 5 weeks. He was arrested on 29th April 2003 and charged with murder. On 4th February 2004 he was convicted of murder and given a life sentence.

After a House of Lords hearing, in which all 5 Law Lords were in agreement that an alternative verdict of manslaughter should have been left for the jury, this conviction was formally quashed at the Court of Appeal on 19th October 2006. A retrial was ordered. However, on 4th July 2007, Graham was once again wrongly convicted of murder.

Evidence: At Graham's trials the prosecution claimed that Ms Longhurst was murdered to satisfy long-standing and macabre sexual fantasies. In the first trial they remained nebulous regarding the detail of what it was they were alleging. However, for the retrial, their new pathologist (Nathaniel Carey) advanced his own hypothesis. This was that Ms Longhurst was attacked from behind, and an arm was used as a choke hold. They then instructed their blood expert (Linda Groombridge) to conduct experiments that would their new hypothesis.

Both from a scientific and legal perspective, this appears to be an erroneous approach to take. One might imagine that you would start with equation (evidence) to determine the answer (the truth). In this case the prosecution started with an answer (hypothesis), and then proceeded to manipulate the question many times over in an attempt to make it 'fit'.

So, what hard evidence did Ms Groombridge use to inform her experiments? There was a stain on Graham's shirt estimated to be 5ml (a teaspoon) of Ms Longhurst's blood. That was it. These experiments were physical in nature, with Ms Groombridge playing the 'victim', and a colleague playing the 'assailant'. Various liquids were used, including Ribena, to create a stain on the assailant's shirt. One might imagine someone being attached from behind would struggle, leaving blood spray on clothing and their surroundings. However, there was no blood spray, so Ms Groombridge acted passively in her experiments, whilst being 'attacked'.

The defence established a number of flaws in Mr Carey's hypothesis and Ms Groombridge's experiments, as well as the whole methodology behind the prosecution's approach. In the final analysis even Ms Groombridge conceded that despite similarities, the stain she produced had "significant differences". As a result of this concession, and a number of others made by both prosecution experts, the defence experts were not required to give evidence.

Summary: The prosecution presented no credible evidence to support their claim of a violent, sexually motivated murder. There is no evidence of: hyoid bone damage; bruising to the neck's strap muscles; ligature marks; petichia; any other injuries to other parts of the body; urination and/or defecation; blood spray; torn and/.or stretched clothing. Further, in the absence of any vaginal injuries, there can only be on possibility – all sexual activity was consensual, and Ms Longhurst's death was accidental, during the course of BCP.

What of the blood stain? At the time Ms Longhurst died, Graham was lying on his back on the bed, and Ms Longhurst was kneeling to his left, positioned diagonally over him engaged in BCP. The blood stain occurred when her head came to rest on his upper right arm. Graham did not become aware of her death, or the blood stain on his shirt, until after he moved her from his arm.

All the evidence indicates that Ms Longhurst died as a result of vagal inhibition. This mechanism can stop the heart immediately, or after a few seconds or arrhythmia, and can strike without warning. A spontaneous expulsion of bloody fluid from the lungs can occur. The stain may have been caused by this, or perhaps something as simple as a nose bleed.

No attack, no violence, no intent to harm, nothing more than a tragic accident

Current:After a rejected 2nd appeal, a CCRC application is being put together. We believe there was a material irregularity regarding one of the jury members. Graham is a son, a brother and a father. We urge anyone with information on this, or any aspect of the case, to contact his solicitor: Claire Bostock: Birds Solicitors, No. 1 Garratt Lane, Wandsworth, London. SW18 2PT

You can also contact Gordon Newton with any information, or messages of support: Gordon Newton: Email: g.newton770@ntlworld.com - Letters of Support/Solidarity to:

Graham Coutts: A4532AE, HMP Wakefield, Love Lane, Wakefield, WF2 9AG

Court of appeal quashes convictions of five men for Kevin Nunes murder

Prosecution in gangland murder case failed to disclose material relating to key witness who gave evidence for crown Vikram Dodd, guardian.co.uk, Thursday 8 March 2012

Adam Joof, Antonio Christie, Michael Osbourne and Owen Crooks, will be released from prison but Levi Walker will remain in jail as he is serving a prison term for another murder.

Appallingly these five innocent men, even though it was clea the Crown Prosecution service were not going to contest the appeal; never got there day in court All the men, apart from Crooks, watched the court proceedings via video link from prison.

The court of appeal has quashed the murder convictions of five men convicted of a gangland killing after hearing of failures to reveal potentially crucial evidence to the defence. The five men were serving life sentences totalling a minimum of 135 years for the 2002 murder of Kevin Nunes, who was taken to a country lane and shot dead in a drugs feud.

Concerns over the case led to four police chiefs being placed under criminal investigation by the Independent Police Complaints Commission, as revealed by the Guardian last year. The IPCC is investigating four senior police officers over allegations of misconduct relating to the Kevin Nunes murder case.The four police chiefs were issued with regulation 14 notices in December, informing them that their conduct was under investigation. The issuing of notices of investigation into an officer's conduct is not meant to imply any wrongdoing. At least nine officers were told they were under investigation over the case. The allegations being examined by the IPCC-managed investigation include conspiracy to pervert the course of justice and misconduct in public office.

The prosecution case was left so flawed after revelations about disclosure that the Crown Prosecution Service did not oppose the convictions being overturned in court on Thursday, nor did they seek a retrial of the five men. Richard Whittam QC told the court of appeal that the "CPS does not seek to uphold the convictions in this case, nor does it apply for any defendant to be retried". Lord Justice Hooper, Mr Justice Simon and Mr Justice Stadlen overturned the convictions after hearing of "failures" in disclosure of material to the defence relating to the key prosecution witness.

The quashing of the convictions follows an investigation by the criminal cases review commission into disclosure issues in the case. The CCRC delivered a 247-page report outlin-

During Megrahi's trial it was accepted the fragment from the timer came from the Swiss company Mebo. The company admitted selling 20 such timers to the Libyans, but new evidence points to the Lockerbie fragment not being one of them. The one at Lockerbie was coated in tin, whereas those sold to Libya were coated with a tin and lead alloy, Mr Ashton says. A sworn affidavit from the production manager said the company only ever used alloy, rather than pure tin. Megrahi's trial heard evidence from two prosecution witnesses that the lack of lead on the coating could be explained by it having been burned off in the heat of the explosion. Neither witness was an electronics expert.

However, the book reveals that Megrahi's solicitor, Tony Kelly, commissioned two scientists, Dr Chris McArdle, a former adviser to the Government, and Dr Jess Cawley, a consultant to the engineering industry, to test the suggestion. Both concluded this could not have happened.

The book also claims that notes by a prosecution forensics expert, Alan Feraday, during his original examination of the circuit board fragment in 1991, reveal he was aware of a difference in the make-up of the circuit board. However, his notes, which were given to police on 8 November 1999, were not disclosed to Megrahi's defence team until 2009. "Had these documents been disclosed to the defence team, they would have provided the basis for a vigorous cross-examination of Feraday but, in the event, his claim that the fragment was 'similar in all respects' to the control samples went unchallenged," said Mr Ashton. "I don't believe the police would have withheld the documents from the Crown, which raises the second question: why was it not disclosed to the defence? "Whether it was deliberate or not, I don't know. But it was appalling, and someone should be held to account for it. They did not meet their duty of disclosure. That is a huge scandal." The Independent on Sunday sent the relevant pages of the book to Mr Feraday but received no response.

Defence lawyer Gareth Peirce said yesterday: "What the research makes unarguable is that any claimed investigation to date has been determinedly false and has robbed them of a truthful and transparent account."

Peter Biddulph, a researcher for Jim Swire, who lost his daughter in the tragedy, said the allegations would further victims relatives' push for a new inquiry. He said: "[These allegations] show the case against Megrahi is totally blown out of the water."

A Crown Office spokesperson said: "In respect of the timer fragment, the defence experts were satisfied it had suffered damage consistent with it having been closely associated with an explosion and that it had come from an MST-13 timer."

Payout for four held at gunpoint in bungled police swoop Independent, 12/03/12

Four innocent friends held at gunpoint in a bungled police swoop have won payouts from Scotland Yard. James Barber, Claire Clarke, Nick Fairbairn and his wife Ruth were travelling in a car mistaken for a vehicle wanted in connection with an armed incident.

One officer was alleged to have used the butt of his gun to smash the driver's window before the occupants were dragged from the car in Harrow, north-west London. The force apologised and agreed to pay compensation to the four of more than £23,000. The force said the incident was "an honest mistake".

A Scotland Yard statement said: "The MPS (Metropolitan Police Service) settled the civil claim brought by the occupants of the car amicably by way of an out-of-court settlement on February 20, 2012 to the satisfaction of the parties. "The settlement was on a non-admission of liability basis but the MPS apologised for the distress suffered by the claimants. "This was an honest mistake involving a fast-moving incident on 19th April 2010 in Harrow.

hunger strikes. As his sentence progressed Bowden developed a strategy of intellectual analysis of the system he is subject to. He appears to conceptualize his activities in the light of a particular ideological awareness and as part of a wider struggle". He then provides the Parole Board with website references for various articles I've written criticising the prison system and cites Stillman's report as a reference source. He concludes this part of his report with - "Bowden questions the whole validity of the prison system and the honesty, professionalism and impartiality of those charged with his assessment and supervision".

The core motive for Barnett's lies are clearly revenge for Stillman, and this is made explicit in a paragraph of the report entitled "Professional Boundaries". Under this he writes: "Bowden is known to have aired grievances on the internet with regard to particular professionals involved in the assessment of his level of risk. He appears to have authored articles that have been forwarded to various websites naming professionals involved in the parole process, suggesting readers contact them directly. He has suggested a named social worker's "right wing views" (Stillman) influenced his assessment of Bowden". He then issues a clear threat: "Should he repeat these actions (publicising the names of social workers) this could be deemed a rejection of the conditions of release". What Barnett is actually saying is that should I dare to expose and publicise his outrageous lies then I risk imprisonment until death.

Brendon Barnett is supposedly a social worker employed by the Criminal Justice Services in Edinburgh who last year was instructed by his employers to prepare a post release supervision plan for me and present it's features in a report for the Parole Board. Instead he abused his position by collaborating with the prison system to prejudice the parole process and sabotage my release. Rather stupidly, instead of basing his disgusting allegations on historical fact and official record, he obviously regurgitated lies from Micheal Mansfield's "Memoirs Of A Radical Lawyer", that Mansfield himself has now publicly admitted were completely untrue. Brendon Barnett should be sacked.

John Bowden: 6729 HMP Shotts, Cantrell Road, Shotts, ML7 4LE

Please write letters of complaint to:

Michelle Miller: Chief Social Worker Officer, Grindlay Court Social Work Centre

Criminal Justice Services, 2-4 Grindlay Court, Edinburgh, EH3 9AR, Fax: 0131 2298628

Lockerbie evidence 'was not given to Megrahi's lawyers' Indpendent, Sunday 11/03/12

A new book claims information that could have cleared Libyan was never passed to his defence. Key evidence that could have acquitted Abdelbaset Ali al-Megrahi of the Lockerbie bombing was not given to his defence team, according to the author of a new book.

Crucial information about a fragment of electrical circuit board that was alleged to have come from the bomb which destroyed a passenger aircraft over the skies of Lockerbie, Scotland, killing 270 people in 1988, was given to police in the run-up to Megrahi's trial in 2000 but never disclosed, it is claimed. The allegations are made in the book Megrahi: You Are My Jury, by John Ashton. The book has been condemned by David Cameron, who called it "a disgrace" to the families of the murdered. It claims that a key fragment of circuit board, found at the Lockerbie crash site and said by the prosecution to be from a timer which detonated the bomb, could not have been one of a batch that was sold to Libya by the manufacturers. The fragment was a vital link in the prosecution argument that the bomb was placed in the aircraft by Megrahi. Last night experts who have closely followed the case said the claim, if true, meant the case against Megrahi is now "blown out of the water".

ing their concerns to the court of appeal in mid-December.

Levi Walker, from Birmingham, Adam Joof, from Willenhall, West Midlands, Antonio Christie, from Great Bridge, West Midlands, Michael Osbourne and Owen Crooks, both from Wolverhampton, were found guilty of the crime at Leicester crown court in 2008. They were convicted of the murder of Nunes, 20, who was found dead in a country road in Pattingham, Staffordshire, on 19 September 2002. Nunes, a talented footballer who had been on the books of Tottenham Hotspur, was shot five times. The convictions were gained after one man who was present, Simeon Taylor, gave evidence for the crown.

A spokesperson for the IPCC confirmed its investigation into the police chiefs and other officers involved in the original investigation were still ongoing. The four chiefs under investigation are the national lead on ethics in policing, Adrian Lee, who is now the chief constable of Northamptonshire; Suzette Davenport, the deputy chief constable of Northamptonshire; Jane Sawyers, assistant chief constable with the Staffordshire force; and Marcus Beale, assistant chief constable with West Midlands police. The investigation is being carried out by the chief constable of Derbyshire, Mick Creedon, on behalf of the IPCC, which retains control and direction of the inquiry.

The men convicted of the murder lodged a challenge to their convictions with the court of appeal, which in turn asked the CCRC to investigate issues of disclosure in the original trial. The CCRC is the body responsible for investigating alleged miscarriages of justice.

The judges were told of an affair between two police officers involved in the case, which may have had a bearing on the evidence given by the witness. The key witness who said at the trial he had seen the killing has since retracted his evidence.

The IPCC investigation began after the men lodged appeals. The four officers remain in post, but the IPCC confirmed the investigation, led by the Chief Constable of Derbyshire Mick Creedon, was ongoing. Staffordshire Police said: "The force will now consider the judgement – and the rationale for the Crown Prosecution Service decision – before determining the way forward."

Jeremy Bamber - Latest Case News

"A lot has been happening while we are waiting to hear news from the CCRC on their decision. There is a lot of media interest in the case at the moment and there is a documentary currently being made to air at the end of the month on ITV. Simon Mckay has continued his work on my case and has also spoken to various media sources about my innocence.

I have heard back from Essex Police regarding several complaints I have made, despite our best efforts to stop a dispensation being applied for by Essex Police, the IPCC have ruled that a dispensation can be applied to the officers who waited 14 months before investigating the alleged fraud on my family's estate. The grounds for the dispensation were that the complaint was received more than 12 months after the officer's misconduct.

The system we call "Justice" does not take into account that these documents were not disclosed until after the 2002 appeal, so how can I have made a complaint about it within twelve months? The allegations by Barbara Wilson that Peter Eaton had stolen considerable sums of money from N & J Bamber Ltd went uninvestigated, and the reasons behind this will never be known because of the dispensation reliving Essex Police from having to answer for this.

Other complaints currently held by the IPCC without resolution are the non disclosure of radio logs (the CCRC recently only obtaining one single page in triplicate), a senior officer of Essex Police holding a personal collection of crime scene photographs. Failure of police to adequately obtain evidence of a struggle from the kitchen floor at the scene, and the issue

of unreported scratch marks in addition to those under the mantle.

I have also made a complaint to the IPCC regarding John Yates, dubbed by the press as “Yates of the Yard” the former Assistant Commissioner of the Metropolitan Police Service. He was in charge of the “Stokenchurch” investigation carried out for the CPS preceding my 2002 appeal. We now have evidence which shows that the Met knew that the burn marks made to my father by the barrel of the rifle which Sheila used to kill the family, were investigated but the results were not disclosed to the defence. The Metropolitan police accepted that Malcolm Fletcher the forensic ballistics expert for the prosecution at trial, did not know the cause of burns and stated so in a report marked by the Met as “no further action.” As we know, this evidence is now integral to the defence case as the moderator was not on the gun during the shootings.

Once again thank you for the many letters of support and kindness from so many people which bring me comfort during the long wait for a decision.”

Jeremy Bamber, A5352AC, HM Full Sutton, York, YO41 1PS.

Forensics Blunder 'May Endanger Convictions'

A rape case collapsed this weeek after prosecutors decided they could no longer rely on the forensic evidence. Private firm LGC Forensics admits sample became so contaminated it could not be offered in evidence Vikram Dodd and Shiv Malik, guardian.co.uk, 08/03/12

Scores of convictions for serious crimes may have to be reviewed after a serious blunder by a leading private forensics firm led to a suspected rapist being acquitted, the Guardian has learned. The company, LGC Forensics, has admitted that a sample at one of its laboratories became so contaminated it could not be offered in evidence.

The rape case, investigated by Greater Manchester police, collapsed this week with the defendant, Adam Scott, 20, who denied the allegation, being acquitted after prosecutors decided they could no longer rely on the forensic evidence. His alleged victim is said to be devastated. A senior source said: "Potentially this has national implications. Hundreds of cases will have to be reviewed. We have no idea what the parameters will have to be. It's serious – it's dealing with the credibility of the system." The senior source pointed out that the cases of most concern were those resting solely or wholly on forensics.

LGC admitted that the sample tying the defendant to the attack had become contaminated with his DNA. It said: "LGC deeply regrets that forensic evidence was contaminated with the defendant's DNA in one of our laboratories. "LGC has already identified the cause of this contamination, and has taken steps to ensure that it cannot happen again.

Our procedure for tracking, identifying and reporting potential contamination will be immediately reviewed and updated. We are also co-operating fully with Greater Manchester police." LGC refused to answer questions, such as at which lab the contamination had taken place and what exactly caused the contamination.

The credibility of LGC and the integrity of its procedures to guard against contamination was central to the conviction of two men for the murder of Stephen Lawrence in January. Gary Dobson and David Norris were convicted predominantly on the basis of forensic evidence from LGC. The trial judge directed that the jury could not consider any other evidence until they were sure they could rule out contamination, which had been the key argument in the defence case.

The case in Manchester that prompted the forensics alert collapsed on Tuesday. Steve Heywood, assistant chief constable of Greater Manchester police, said: "On Tuesday we were made aware that a DNA profile provided by LGC Forensics in connection with a sexual

class.

Nowhere more is this so than in the case of prison-based social workers and criminal justice probational/supervision officers who are little more than appendages of repressive state power and act as a legitimizing and respectable cover for that power.

The collaboration of prison hired social workers in the victimization of prisoners labelled 'control problems' was exemplified by Matthew Stillman, a social worker employed by Perth and Kinross Council in Scotland, who in 2007 whilst on placement at Castle Huntley open prison in Dundee wrote a social work report for the Parole Board in which he described the Anarchist Black Cross support group (ABC) as a 'terrorist organisation' and my support of it as sufficient reason to deny my release after 30 years in jail. As a direct consequence of Stillman's report I was removed from Castle Huntley open jail where I was preparing for release and returned to maximum security conditions. Following a public campaign by the ABC and an internal investigation by Perth and Kinross Council, Stillman's claim was exposed as a deliberate lie and he was quietly moved to another job. Stillman would subsequently claim that senior management as Castle Huntley jail had encouraged him to make the terrorist claim in his report. What the episode actually illustrated was the malleability of 'criminal justice professionals' by a vindictive prison management and how willing such 'professionals' compromise their integrity in the interests of career and power.

This was again illustrated in February of this year before another scheduled parole hearing to consider my release when the Parole Board asked a community based social worker in Edinburgh, Brendon Barnett, to prepare a post release supervision plan report. Told by the prison authorities that I was refusing to co-operate with an assessment for psychology based behaviour modification programmes, Barnett wrote a report clearly intended to influence the parole board to deny my release indefinitely. Like Stillman, he also wrote lies in his report, but this time the lies really did defy belief.

When claiming to describe my original offence in 1980 and my 'patterns of behaviour' at the time of the offence, Barnett wrote in his report: “His victims were individuals easily discriminated against on the basis of race and sexuality”. “There was a pattern of behaviour that allowed for the predatory targeting of vulnerable human beings defined by race or sexuality”. “Individuals were deemed worthy of attack on the basis of ethnic background and deviant sexuality”. “There has been no investigation of the values and beliefs that informed Bowden's targeting of individuals, i.e. what particular characteristics deemed a person worth of attack: ethnic background, deviant sexuality?” Incredibly, without any reference to official records, i.e. police reports or trial transcripts, Barnett committed his outrageous lies to a report intended for the Parole Board, a body thoroughly conversant with the facts of my original offence.

The actual facts are these. In November 1980, during a drunken party at a flat in South London, Donald Ryan, a white Caucasian, heterosexual man was killed by 3 other white Caucasian, heterosexual men, one of whom was me. The police who investigated the case, the prosecution authorities and trial judge who tried the case, have never claimed or suggested there was a racist or homophobic dimension to the case, and why would they? Barnett's claims were a complete invention. In the preamble to his report Barnett claimed that all his information was derived from 'core documents' and 'source material'; this was also a lie.

An explanation as to Barnett's motives in writing such reckless lies is possibly provided by other parts of his report. Under a heading he terms “Compliance” he writes: “Bowden's time in custody has been characterised as a sustained and deliberate war of attrition with the prison service. It is reported that earlier in his sentence he often began riots, dirty protests and

The European Court of Human Rights has sent similar signals. In its recent Grand Chamber judgment in the case of Stanev v. Bulgaria, it highlighted the growing importance which international law, including the UN Convention, now attaches to granting persons with psychosocial disabilities as much legal autonomy as possible.

The case concerned a man who had been put under partial guardianship and in de facto detention in a social care home. The Court found that the deprivation of liberty of the applicant as well as his lack of access to court to challenge the lawfulness of his detention and to seek restoration of his legal capacity had breached the European Convention on Human Rights.

Supported decision-making: The support called for in Article 12 of the UN Convention can take a variety of forms: for instance, support to enable someone who communicates in alternative ways to convey messages to others; assistance in contacts with the authorities; or help to define options for living and other arrangements.

The choices rest with the individual. Third parties – public officials, doctors, social workers, bank employees and others – must in turn take measures to enable the individual to enter into agreements and take decisions with legal consequences.

A network of supporters should be recognised – but not imposed on the individual – and these supporters may provide information and options to help him/her to make decisions. The Convention states that there should be appropriate and effective safeguards in order to prevent abuse. The preferences of the person concerned should be respected and care should be taken to ensure that there is no conflict of interest involved or undue influence being exercised.

The sad truth is that most Europeans with intellectual or psychosocial disabilities who would like to have such support are currently asked to give up their legal capacity and accept that someone else takes decisions on their behalf.

A radical rethink is needed: The rights-based approach requires a respectful attitude from the community and a capability to listen which is not present everywhere. Moreover, there will be situations of communication difficulties despite genuine efforts to support the individual. In such cases it may be necessary to resort to 'best interests' reasoning – seeking to find out what the person would have wanted, if communication had worked.

However, even such situations are no argument for depriving these individuals of their legal capacity. Instead, different types of support should be developed, in dialogue with the users, so that a better understanding of their choices and preferences can emerge.

What is called for is no less than a radical overhaul of present policies. All European governments should review their existing legislation on legal capacity. They should abolish mechanisms for full incapacitation and plenary guardianship.

They should stop depriving persons with disabilities of their voting rights and placing them in de facto detention in institutions against their will.

They should also recognise that far more efforts are needed to develop supported decision-making alternatives for those who want assistance in making choices or communicating them to others. *Thomas Hammarberg, European Commissioner for Human Rights*

Another Attempt To Sabotage John Bowden's Parole By Prison Hired Social Worker

The changed role of probation officers, and in Scotland social workers, from 'client centered' liberal professionals into 'criminal justice workers' focused essentially on 'public protection' and 'managing risk' has in many cases led to serious abuses of power as what were once considered vocations of social conscience have been transformed into little more than the revenge of the middle

assault had been contaminated during the testing process in their laboratories. "The exact circumstances of how the sample was contaminated at the laboratory are yet to be established but I am determined to discover what has occurred. We will work closely with LGC Forensics, the Home Office and other partners to review the full facts of what has taken place. "In addition we will be conducting an internal review of some investigations where LGC Forensics has been used in the processing of forensic evidence. At this time there is nothing to suggest any other cases within GMP will be affected."

The CPS said it had had no choice but to drop the rape case after it emerged that the forensic evidence had become contaminated in the LGC lab. "The key and significant evidence in the case was scientific evidence linking the defendant to the incident. We were notified earlier this week by Greater Manchester police of further information they had received that the scientific evidence in the original submission could no longer be relied on.

"We have a continuing duty to review cases as they develop and concluded that in view of this new information the prosecution against the defendant should not continue. We immediately informed the court and the defence and offered no evidence. The defendant was formally acquitted of the offence." Police forces have turned to private suppliers after the government decided to shut down the Forensic Science Service. Its closure was announced in December 2010 by the home secretary, Theresa May, because the government-owned company had been losing £2m a month and was at risk of going into administration.

A Home Office spokesman said: "DNA evidence is a vital tool for the police which has helped convict thousands of violent and dangerous criminals. "Forensic science regulator Andrew Rennison has launched an immediate investigation to find out what lessons can be learned from this individual case." LGC has a reputation for leading the way in cutting-edge science and has had success in cold-case reviews, where seemingly dead-end cases result in convictions after fresh forensic techniques produce new evidence.

R v Gilmore [2012] EWCA Crim 237

The appellant, Gareth Gilmore, is aged 22. He has a previous conviction for escape and a previous conviction for attempting to escape. On 11th August 2011 at Manchester Crown Court he pleaded guilty to an offence of escape and was subsequently sentenced to 7 months' imprisonment.

On 27th July 2011 the appellant was on licence. At about 8.30 pm, the police executed a search warrant at the appellant's home. The police found the appellant in his bedroom. They arrested and handcuffed him. They searched the room. They found a rucksack containing two bags of white powder. They believed it was drugs. It transpired it was not. The appellant said that the items did not belong to him. He succeeded in escaping. A search failed to locate him but he later gave himself up at the police station. At the time of sentence there was a report which indicated that he had fully abided by his licence conditions. It was submitted on his behalf that in the particular circumstances of this case, 7 months' imprisonment was too long. There was the very strong personal mitigation, which suggested that he was turning his life round: he had found work; he gave himself up to the police and he pleaded guilty at the very first opportunity.

Held: "As it seems to us, although we can understand how the judge came to pass the sentence he did, given the unusual facts of this case, a sentence somewhat less than 7 months could have been imposed. A sentence of 4 months would have been adequate, as it seems to us, in the particular circumstances of the case. To that extent therefore, this appeal is allowed and a sentence of 4 months substituted for that of 7 months."

Human Rights Review 2012 - Authorities can improve human rights protections

Although not a "supreme law bill of rights", the Human Rights Act 1998 (HRA) is a significant constraint upon the political-legislative process. At present, the HRA serves two distinctive and important "bridging functions". On the horizontal (national) plane, it operates as an interface between legal and political notions of constitutionalism: although the doctrine of parliamentary sovereignty is formally undisturbed, the HRA reduces the political scope for legislative interference with rights by making the ECHR a benchmark by reference to which legislation falls to be judicially assessed – and condemned, via a declaration of incompatibility, if found wanting. Meanwhile, on the vertical plane, the HRA creates a site of interaction between national law and politics, on the one hand, and international law, in the form of the European Convention on Human Rights (ECHR), on the other. In this way, the Act brings into focus the tension between the binding nature of the Convention rights in international law and the legal freedom of the UK Parliament to override those rights as a matter of national law.

It is in the interaction of its horizontal and vertical bridging effects that the potency of the HRA lies: the political pressure exerted by a legal judgment that yields a declaration of incompatibility is attributable in part to the fact that, for all that such a declaration is non-binding in terms of national law, it identifies a breach by the UK of norms that are binding upon it in international law. This helps to explain why, for instance, declarations of incompatibility routinely result in remedial legislative action.

The HRA thus enables norms that are binding in international law to penetrate the domestic sphere, thereby eroding the distinction between the legal and political realms erected by the orthodox notion of legislative supremacy. But it follows that the potency of the HRA model is conditional upon the Convention rights possessing real bite – a condition that is satisfied through the capacity of the ECtHR, as ultimate and authoritative adjudicator upon the meaning of the ECHR, to imbue the Convention rights with a legal crispness and practical force that international human rights norms do not inevitably possess. Yet three interlocking features of the draft Brighton Declaration would, if implemented, reduce the Court's ability to discharge such a role. HRC has published its' 'Human Rights Review 2012' of how the government should improve its' implementation of the act, below some extracts from the review

"Counter-terrorism and public order legislation designed to protect everyone can risk undermining several human rights"

Since the 9/11 attacks, governments around the world have needed to take additional measures to protect their citizens from the threat of terrorism. While it is crucial for government to protect public safety, it has to balance this with its obligations to protect the rights of all individuals. The review identified problems with the interpretation and implementation of counter-terrorism legislation domestically, and with Britain's international counter-terrorism activities.

The review is critical of the impact of counter-terrorism legislation on legitimate expression of political views and gatherings. It found that the definition of terrorism is still too broad and criminalises lawful protests and political expression, as well as the terrorist acts which parliament intended.

Stop and search powers under the Terrorism Act 2000 have been widely criticised by the JCHR and human rights organisations for risking breaches to Articles 5, 8 and 14. Stop and search without reasonable suspicion may sometimes be necessary to prevent an immediate act of terrorism, or to search for perpetrators or weapons following a serious incident. But police have used stop and search powers against peaceful protestors and disproportion-

sion. The proposed abolition of conditional fee agreements will undermine access to justice for claimants and defendants of limited means, potentially breaching Articles 8 and 10.

Police rely on information and intelligence to plan for large-scale protest events and to identify the potential for disorder or violence. Inappropriate and disproportionate use of surveillance of protestors who have not committed any criminal offence can violate their right to a private life.

EDM 2834: Deprivation of Legal Capacity

That this House notes the comments of the *Commissioner for Human Rights of the Council of Europe made on 20 February 2012 where he says that the policy of routinely depriving people of their legal capacity violates agreed human rights standards; further notes the unreliability of many of the assessments of capacity used in the courts of England and Wales; recognises that this statement indicates that the Strasbourg court is likely to conclude that such routine deprivations of capacity are now unlawful; further notes the substantial number of complaints about financial wrongdoing associated with such removals of capacity; and calls for the establishment of a review by Government and by Parliament of this aspect of jurisprudence. Primary sponsor: John Hemming, date tabled: 07/03/2012

Persons with intellectual and psycho-social disabilities must not be deprived of their individual rights Persons with intellectual and psycho-social disabilities are today routinely placed under a guardianship regime in several European countries - they are deprived of their "legal capacity". In the eyes of the law they are seen as non-persons and their decisions have no legal relevance. This policy violates agreed human rights standards.

The bulk of the legal capacity systems in Europe are out-dated and in urgent need of reform. The automatic loss of human rights of those placed under a guardianship regime is a practice which must be changed.

Being recognised as someone who can make decisions is essential for everyone who seeks to take control over his/her life and participate in society on an equal basis with others. Having legal capacity enables us to choose where and with whom we want to live, to vote for the political party we prefer, to have our health care decisions respected, to control our own financial affairs and to have access to cinemas and other leisure activities.

No exception should be made from the assumption that all adults of majority age have legal capacity. In a society respecting human rights also persons with intellectual and psycho-social disabilities must be included.

This requires that support alternatives be developed to enable some individuals to make decisions for themselves and expand their capacities to do so. This obligation on governments is prescribed in the landmark UN Convention of the Rights of Persons with Disabilities from 2006, now ratified by most European states.

Equal recognition before the law: The Convention's Article 12 (on the equal recognition before the law) signals a deeper understanding of equality: all persons with disabilities shall enjoy legal capacity on an equal basis with others in all aspects of life and shall be provided with the support they may require in exercising their legal capacity.

This shift from the withdrawal of legal capacity to the right to be supported in exercising the legal capacity reflects a profound attitude change: from charity to a rights-based approach and from paternalism to empowerment. The lack of legal capacity has all too often hampered the struggle of persons with disabilities to reclaim their human rights, as they have had no legal possibility to challenge violations of these rights.

sex couples means married transgender people are forced to choose between ending their marriage and having their acquired gender officially recognised by law. The review finds that the current options either to end the marriage and enter into a civil partnership, or remain in a marriage but not be recognised in one's acquired gender, means that transgender people cannot enjoy their right to a private identity and personal relationships, such as marriage.

Britain has a positive record in developing the legal and administrative infrastructure to monitor, investigate and prosecute instances of slavery, servitude, forced labour and trafficking, however the protective mechanisms may not work as well as intended. Our evidence shows that victims of trafficking may be criminalised or sent to immigration detention centres. In some cases trafficked children have been sent to adult prisons when charged with offences, or incorrect age assessments have meant they have not been offered the support and protection due to every child.

Our evidence also suggests that measures to curb the activities of gangmasters are not adequate to protect migrant workers, and proposed changes to the visa requirements for migrant domestic workers may lead to Article 4 breaches. The number of prosecutions and convictions for slavery, trafficking and forced labour are low.

"The legislative and regulatory framework does not offer sufficient protection of the right to a private life and for balancing the right to a private life with other rights"

The HRA introduced a free standing right to privacy into UK law and increased protection for the right to private and family life and obligations on the state to protect and promote Article 8. However, the two key statutes, the Data Protection Act 1998 (DPA) and the Regulation of Investigatory Powers Act 2000 (RIPA) provide patchy protection. Definitions of 'personal data' which are central to DPA are not clear; and RIPA has not responded effectively to technological changes which enable more extensive surveillance of individuals.

Regulatory safeguards to protect against breaches of the right to private life are also not effective. The Information Commissioner's Office does not have adequate resources to carry out it functions effectively and there is insufficient independent judicial oversight of RIPA and surveillance regulations.

The current Leveson Inquiry into media standards and surveillance has made the balance between individual's rights to a private life and freedom of expression in the media an issue for public debate. Article 8 rights to a private life are not always adequately protected against press intrusion by injunctions and improper reporting of criminal investigations by the media may prejudice the right to a fair trial. The Press Complaints Commission has faced extensive criticism following its failure to investigate the phone hacking scandal effectively, and its future regulatory role is under scrutiny.

There are also problems with libel and defamation law which individuals may use to protect their reputations. The legal defences available to journalists, commentators and other defendants in defamation cases are complex and hard to use, and this may create a 'chilling effect' and encourage self-censorship. The internet makes publication instantaneous and harder to control. Personal information and false allegations can be circulated very quickly. Our evidence shows that libel laws are out of date and do not address issues arising from publication on the internet, and injunctions can also be difficult to enforce. The proposed changes in the Defamation Bill will need to be monitored to assess that people who are defamed can take action to protect their reputation where appropriate, without impeding free speech unjustifiably.

The high legal costs in cases related to privacy and freedom of expression make it difficult for individuals to protect themselves and may also have a 'chilling effect' on freedom of expres-

ately against black and Asian people. The European Court of Human Rights has found the powers to stop and search under sections 44-47 of the Terrorism Act 2000 powers to be unlawful. The Protection of Freedoms Bill proposes changes to stop and search powers and it will be important these create a regime which respects human rights.

The review also finds problems with counter-terror measures against individuals suspected of terrorist offences. Over the past decade governments have tried to increase the maximum period for pre-charge detention with judicial authorisation for suspected terrorism-related offences. The current 14 day detention period is considerably less than the government's 2008 proposal for 42 days, but considerably longer than the four days permitted for individuals charged with a criminal offence. Extended periods of pre-charge detention risk breaching Article 5, the right to security and liberty, as people who have not been charged with an offence should not be deprived of their liberty for an excessive length of time. The UN Human Rights Committee and UN Human Rights Council have recommended strict time limits for pre-charge detention and that any terrorist suspect arrested should be promptly informed of any charge against him or her and tried in court within a reasonable time, or released.

Control orders and Terrorism Prevention and Investigation Measures (TPIMs) are another controversial area of counter-terror legislation which allow the Secretary of State to impose strict conditions on a terrorist suspect's movements and social contacts. Control orders were intended to be used against the small number of people whom the government believed to represent a threat to the security of the country, but for whom it had insufficient evidence to prosecute. These restrictions on liberty were based on reasonable suspicion of what a person might do, rather than as punishment following conviction for a criminal offence, and so take place outside the usual criminal law process. The UN Human Rights Committee and JCHR were critical of control orders that restrict the liberty of an individual who has not been charged with a criminal offence and the orders have been successfully challenged in the domestic and European courts in relation to Articles 5 and 8, the rights to liberty and security and to a private and family life. Courts have also found that the process by which control orders are granted, which involves the use of closed material, breaches Article 6, the right to a fair trial.

TPIMs replaced control orders, but still allow significant restrictions to be placed on people who are reasonably believed to be involved in terrorism-related activities, but have not been convicted of any offence. The government has stated that these will meet human rights obligations. However, the JCHR is critical of TPIMs and their compliance with human rights. The Commission believes the TPIM approach lacks important safeguards to protect human rights and may still fail to comply with the rights to liberty and security and the right to a fair trial, as well as Article 8 and 14 rights.

'Closed material procedures' have been introduced to deal with cases involving the use of sensitive material which the government fears cannot be made public without damaging national security. This means that some evidence is heard in secret; neither the person involved in the proceedings nor their representatives are told what it is. Instead, a 'special advocate' - appointed by the Attorney General - examines the closed material and represents the interests of the person affected in closed sessions. Any communication between the special advocate and the person whose interests they represent is prohibited without the permission of the court and the government. This means that a case may be decided against someone without that person ever finding out the reasons why. The use of closed material is expanding and is now used across tribunals, civil and criminal courts - and the government is proposing to expand it further. The closed material procedures risks breaching Article 6, the right to a fair trial.

Britain has an extensive legal framework regulating public protest. However the public order legislation is complex and very broad. Police sometimes do not understand their powers and duties and do not always strike the appropriate balance between the rights of different groups involved in peaceful protest. Protests in and around parliament are subject to overly restrictive authorisation rules. Managing modern protest can be difficult and challenging, with the police required to engage directly with protesters in fast-moving and volatile situations which may be provocative, intimidating and sometimes violent. On occasion, the police use force to manage a protest, or to prevent harm to people or damage to property. Criminal and common law require the use of force to be reasonable. Excessive force is unlawful and may violate Articles 2, 3 and 8. However there is no common view among police forces about the meaning of reasonable force and the police do not always use the minimum level of force when policing protests.

The use of surveillance, the infiltration of peaceful protest organisations, pre-emptive arrest or detention of individuals and the use of civil injunctions against protestors by private companies undermines the right to freedom of peaceful assembly and association with others.

"Providing a system of legal aid is a significant part of how Britain meets its obligations to protect the right to a free trial and the right to liberty and security. Changes to legal aid provision run the risk of weakening this":

Article 6 of the European Convention on Human Rights includes the provision that anyone charged with a criminal offence should be given free legal assistance if they do not have sufficient means to pay for it themselves, when this is required in the interests of justice. This aims to ensure that defendants have a fair trial, even if they do not have the financial means to defend themselves. For civil cases, the right to a fair hearing may require the state to provide legal aid for complex matters or where someone would have difficulty representing themselves. The Legal Services Commission provides means-tested funding for advice and representation. However, the current 'fixed fees' system - a standard payment regardless of time taken for social welfare cases - creates incentives for lawyers and advisers to choose more straightforward cases. This means that people with complicated or unusual cases may be less likely to receive high quality advice.

Access to legal advice and assistance is a particular difficulty for immigration detainees. Under Article 5, anyone deprived of their liberty must have the opportunity to challenge their detention. For most immigration detainees, an application for release on bail is the simplest way to seek their release. Most people held in immigration detention rely on legal aid to access a lawyer. However, some detainees find it difficult to find an available legal representative offering quality advice.

Proposed changes to legal aid could limit many people's access to legal advice and services in areas of civil law and for criminal cases. This means that some people, if forced to represent themselves, may not have access to a fair trial. The impacts of these changes will need to be assessed and tracked.

"Health and social care commissioners and service providers do not always understand their human rights obligations and the regulator's approach is not always effective in identifying and preventing human rights abuses":

Almost everyone in Britain will use health and social care at some point in their lives, and we have the right to expect we will be treated with dignity and respect. However, the evidence shows that some users of health and social care services, such as older or disabled people, experience poor treatment which is undignified and humiliating. At its most extreme, abusive, cruel and degrading treatment is similar to torture. This is in breach of Article 8 and Article 3 rights.

The reason for this may lie partly with the scope of the Human Rights Act (HRA) and agencies' poor understanding of their HRA responsibilities. People who receive health or social care from private or voluntary sector providers do not have the same guaranteed level of direct protection under the HRA as those receiving it from public bodies. However, their rights may be protected indirectly as the public authorities that commission health and social care services from independent providers have positive obligations to promote and protect the human rights of individual service users. Yet the Commission's recent inquiry into home care showed that many local authorities and primary care trusts have a poor understanding of their positive obligations under the HRA and do not include human rights in the commissioning criteria around the quality and delivery of care. Frontline staff also do not always make the link between human rights and the care they provide, and their lack of awareness can lead to abuse and neglect of patients.

Our evidence also questions the effectiveness of inspections by the Care Quality Commission (CQC). As the regulator for the health and social care sector, the CQC has a central role in protecting the human rights of disabled and older people in regulated care settings. However its approach has sometimes failed to identify and prevent abuses of human rights. It is currently reviewing its approach in order to strengthen its regulatory model of monitoring and inspecting providers.

An effective complaints system is also an essential element to protect service users against undignified, abusive and inadequate treatment. However some service users do not know how to make complaints, or do not do so, as they fear this will adversely affect their care.

"The human rights of some groups are not always fully protected":

Human rights are universal and apply to everyone. However, the review showed that some groups which are socially marginalised or particularly vulnerable do not enjoy full protection of their rights.

The review looked at how local authorities, police or social services had sometimes failed to fulfil their positive obligation to intervene in cases of serious ill-treatment of children, disabled people, and women at risk of domestic violence. Police sometimes failed to take seriously allegations of repeated violence that were so severe the allegations reached the threshold for inhuman and degrading treatment under Article 3. Local agencies sometimes failed to work together effectively, and in some cases this had led to the death of a child or disabled person.

The review looked at how ethnic minority groups were more likely to be subject to stop and search and counter-terrorism legislation, undermining their Article 5 rights to liberty and security. They are also more likely to have their details recorded on the National DNA Database, which interfered with their Article 8 rights to privacy. These incursions on Article 5 and 8 rights affected everyone, but ethnic minority groups were disproportionately affected compared to their population size. This discrimination also engaged their Article 14 rights, which prohibit discrimination in the enjoyment of the rights contained in the Convention.

The right to a home protected by Article 8 is something we take for granted, but the review found that the rights of Gypsies and Travellers were sometimes overlooked. Gypsy and Traveller communities face a shortage of caravan sites as some local authorities have failed to invest in site development. The lack of sufficient sites means it is difficult for Gypsies and Travellers to practice their traditional way of life.

The right to respect for a private life also protects our right to develop our personalities and relationships with others. Individuals who are transsexual and whose gender identity does not match their birth gender are not protected by current laws around marriage and civil partnership. The dual system of civil partnership for same sex couples and marriage for different