unacceptable behaviour was taken seriously and appropriately challenged by prison staff. Monitoring of self-harm was generally better than we usually see, and the provision of peer supporters was now comprehensive. There had been reasonable progress in relation to recommendations on discipline, and the number of adjudications referred to the independent adjudicator had reduced. We were, however, concerned that handcuffs were used on some occasions when they were not required, and that prisoners were sometimes located in the care and separation unit unnecessarily.

Some cells designed for single occupancy continued to accommodate two prisoners. Relationships between staff and prisoners were, broadly, good, and there had been considerable efforts to consult with prisoners and to improve relationships. There had been similar efforts to consult with black and minority ethnic prisoners, although their effect on relationships remained unclear. Other aspects of diversity work were reasonable, especially those relating to older prisoners. A health care manager and deputy had been appointed since our last inspection, and there had been improvements in the provision of health services.

Featherstone had maintained its emphasis on resettlement and focused appropriately on the development of offender supervisor skills, introducing comprehensive quality assurance arrangements to support and facilitate one-to-one work in areas not covered by formal offending behaviour programmes. Pathway provision was good, as were pre-release assessments.

Featherstone demonstrates clearly the positive impact that can be made through the introduction of a properly integrated working day that fully engages prisoners. We have identified some key areas that require further work, but the governor and staff at HMP Featherstone can justifiably feel proud of the progress they have made to date.

Report on an unannounced full follow-up inspection of HMYOI Brinsford

Inspectors were concerned to find that:

- When we last visited we had concerns that Brinsford was unable to provide a sufficiently safe environment for those it held. Despite some evident improvements, this remained the case.
- induction arrangements were weak, while first night cells and induction accommodation was poor and many new arrivals felt unsafe on their first night;
- despite some clear improvements to deal with violence and bullying, the total number of antisocial, violent and use of force incidents remained high;
- Issues concerning safety were not helped by the very poor quality of most of the accommodation, most accommodation was dirty, poorly painted and poorly equipped, and many cell windows had been burnt, leaving them charred;
- time out of cell remained too limited and was fairly poor for most young men; and
- approach to resettlement was disappointing, with no current needs analysis, lack of

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)
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MOJUK: Newsletter 'Inside Out' No 364 22/03/2012)

What's left of the 'just' in 'Justice'?

The prosecution and conviction of Jordan Towers leaves one questioning, what is left of the "just" in "Justice?". There are two aspects to Jordan's case which raise serious questions about how so-called justice is being obtained in England and Wales in the 21st Century.

The first is the case against Jordan, itself. The second is the extent to which the authorities claimed by the justice system to be points of remedy for failures within the system, themselves fail abysmally to secure such remedy.

Jordan was 16 years old when, along with two others, he was convicted of murder. The basis for the conviction was the doctrine of Joint Enterprise, the central tenet of which is that persons believed to have participated in, or in some way to have contributed to, or to have anticipated the likelihood of the act of murder are, themselves, guilty of the crime of murder. What is wide open, however, is any secure definition of "participated in" "contributed to" or "anticipated the likelihood of."

In Jordan's case, there was no direct evidence of any of the above, other than that Jordan was with two other youths when a man was stabbed to death. The trial Judge, Recorder David Hodson, clearly stated that it was common ground that Jordan took no part in the killing. There was no evidence that Jordan inflicted any harm whatsoever on the victim. The two other youths blamed each other.

The murder was the result of a spontaneous eruption of violence - there was no evidence of a planned attack, none of any gang-related issues- nothing, in fact, which could possibly be used to suggest that Jordan could have, or should have, anticipated the events which unfolded that night.

The one piece of "evidence" which was used in court was that Jordan threw a rock to the ground. He did so after the fatal wound had been inflicted, it did not strike the victim (nor was it intended to,) and was thrown when Jordan was, according to the evidence of witnesses at the scene, standing some way off from the victim and the other youths. In what way does the throwing of a rock, well away from the victim, after the fatal blow has been inflicted, demonstrate participation in, anticipation of, or contribution to the act of murder? Common sense tells us it does not. But we are not discussing common sense, we are discussing the law, and in particular, the application of Joint Enterprise doctrine in serious criminal cases.

How did Jordan Towers come to be convicted of the crime of murder?

The Human Rights Act, at Article 6, provides that:

3 Everyone charged with a criminal offence has the following minimum rights:

(a) To be informed promptly, in a language which he or she understands, and in detail, of the nature and cause of the allegation against him

(b) To have adequate time and facilities for the preparation of his defence

(c) To defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require.

Two issues arise here. Was Jordan Towers informed, in a language he understood, and in detail, the nature and cause of the allegations against him? It would seem not. Jordan was not charged with "joint enterprise," he was charged with murder. Had the charge been simply murder, without

the need for basing it in Joint Enterprise doctrine, then it could not have stood - all of the evidence, as agreed by the judge himself, proved that Jordan took no part in the murder. The nature of the allegation against him was that he somehow participated in a murder which all of the evidence showed he did not. But was that ever explained to Jordan in detail, or in a language he understood? Clearly not. Jordan was 16 years old, and wholly dependent on his legal representatives to advise him, and this is where the second issue arises - was Jordan Towers able to be properly defended by the legal representatives engaged to do so?

One of the other co-accused was represented by the same firm of solicitors which was defending Jordan, creating an immediate and clear conflict of interests. Since the two other co-accuseds were blaming each other, and Jordan was blaming both, it is clear that Jordan's testimony could have been extremely damaging to the defence of both co-accuseds. Jordan was advised by his legal representatives not to give evidence in his own defence, in what can only be seen as a calculated move to protect the interests of the co-accused being represented by the same firm.

Previous advice given to Jordan appears to have also been grounded, to a large degree, in concerns for the possible consequences for another client - for example, he was advised only to speak about himself in police interview (presumably to avoid him saying anything which may incriminate another.) The consequence of this, clearly, is that Jordan was not able to adequately defend himself, by providing information about what the others had done that night.

At trial, the co-accused being represented by the same firm made several allegations about Jordan. For obvious reasons, defence counsel could not address these allegations on Jordan's behalf, without seriously undermining the interests of their other client. The impact, therefore, of Jordan being advised not to give evidence, was compounded.

An application to the CCRC explored these issues in depth. Extensive submissions covering the failings of the legal representation, and in particular, the impact of a clear conflict of interest, were made. Further submissions, relating to the detail of charges under Joint Enterprise were also made, namely that of the three tenets of Joint Enterprise - knowledge, participation and intent - only one, participation, was addressed in Jordan's defence, therefore a full and proper defence was not before the jury.

The CCRC refused to refer the case back to the Court of Appeal, on the basis that Jordan, himself, made the decision not to give evidence in his own defence, that the CCRC did not consider that there was any real possibility that the Court of Appeal would be persuaded that any deficiencies in the standard of defence Jordan received affected the fairness of his trial, or therefore, impacted upon the safety of the conviction, and that assumptions had been drawn that Jordan would have been a credible witness.

The first of these is patently ridiculous. Jordan was 16 years old, facing a charge of murder. He could not possibly have known what was the “right” thing for him to do, and was entirely dependent on the legal team to make those decisions on his behalf. The law in the UK deems that 16 year old children are not mature enough, and do not have enough life experience, to make informed decisions as to whether they should smoke cigarettes or drink alcohol, or which political party they should vote for in an election. To suggest that they are mature and experienced enough to know what is in their best interests when facing something as serious as a murder charge defies logic.

The last of these appears to have missed the point entirely. Had Jordan been properly advised, his accounts in police interview would arguably have been more coherent, more reliable, and more credible. It was the advice of the solicitors themselves which led to Jordan being unable to tell the police properly his experience of events that night, not because it

The British government and the British public need to reflect on where this is all leading. Prisoners, whatever their crime, are neither the playthings of the state nor monsters to be thrown away and experimented on behind locked doors and high walls.

If Britain has any self-respect left at all, which some would consider doubtful, the government should stop these experiments and instead of wasting the hundreds of millions currently being spent on politically beneficial but ineffective and sometimes inhuman treatment, it should spend the money to try and stop abuse at the source; that is, in the home environment – that place where politicians and those with vested interests fear to tread because it is difficult.

Comment from Rosemarie Leclerc : Hmm...don't see how this can be classified as a clinical trial in any way that pharmacological licencing bodies would recognise - they would need to have a random control group on a placebo and release them all, including the non-medicated group, then measure their post-release offender behaviour and any new conviction rates/recalls. This is not really much different from what the Japanese and the Nazis did during WW2 to "subhumans" or what the USA and the UK did to its troops during tests on chemical and nuclear weapons. The "science" involved in this "experiment" is very dubious and can't be measured by normal pharmaceutical testing. (I'm only a nurse not a medic but sheesh even I can see how dodgy this stuff is!)

Sohail Mahmood: acquitted on 'Joint Enterprise' murder and manslaughter charges

Sohail Mahmood's family came to the meeting of Yorkshire and Humberside Against Injustice (YHAI) on 15 February 2012, seeking advice because Sohail was then on trial at Leeds Crown Court for the murder of Gavin Clarke. Gavin Clarke had been shot by Afzal Arif on 8 August 2011, and Sohail was associated with Arif through use of the joint enterprise legal doctrine, based on phone calls exchanged between the two men around the time of the shooting. Sohail had nothing to do with the shooting, but on the instructions of Arif, he attempted to dispose of the phone he had used.

YHAI members advised Sohail's family on how to present a strong case at the trial. With our help, he was acquitted on the two joint enterprise murder and manslaughter charges, but unfortunately convicted on the perverting the course of justice charge (sentenced to three and a half years).

Yorkshire and Humberside Against Injustice is pleased to have contributed to the acquittal of an innocent man, who was facing a possible life sentence due to the use of the unjust ‘Joint Enterprise’ law.

Report on an unannounced short follow up inspection of HMP Featherstone, 21–23 November 2011 by HMCIP. Report compiled January 2012 published Friday 16th March 2012

Inspectors had some concerns:

- handcuffs were used on some occasions when they were not required;
- prisoners were sometimes located in the care and separation unit unnecessarily;
- some cells designed for single occupancy continued to accommodate two prisoners

Introduction from the report: Following our last inspection in 2008, we reported that the prison was making continued progress and was a 'reasonably safe, respectful and purposeful establishment with a commendable emphasis upon resettlement', although we also recognised that there was still much more that needed to be done. Of the 141 recommendations in 2008, 86% had either been achieved or partially achieved. We concluded that the prison was making sufficient progress against all four healthy prison tests.

Featherstone remained a safe prison. Levels of recorded violence and antisocial behaviour were low and investigations into the incidents that did occur were comprehensive. We were assured that

them to lower the risk. “These men … do report marked changes in their lives,” he added.

If the drugs don’t ‘make them safe’ then what is the point of administering them? As for the ‘changes in their lives’, of course there is a change. Everyone changes when they are pumped full of drugs. This whole issue also begs the question as to how anyone can accurately assess another person’s risk, most assessments essentially being based on so-called ‘professional judgement’ or, in reality, a guess.

Over the last 20 years or so, the prison and probation services, eagerly supported by MPs and child protection groups, have introduced offending behaviour courses, psychometric testing, a penile plesmysgraph (which allegedly measures sexual arousal), the expensive and ineffective Sex Offenders Register, increased restrictions on released sex offenders, Sex Offender Prevention Orders, mandatory lie detector tests (so unreliable they are not allowed to be used as evidence in court), Travel Prevention Orders, Dangerous Personality Disorder units and now, chemical castration.

Every single measure listed above started as a ‘pilot’ or experiment, most on a ‘voluntary’ basis and every single one of them were later made compulsory either in Law or by effect.

One cannot help but feel that many of these measures have been introduced in order to support and expand the ever-growing ‘public protection’ and ‘child protection’ industries and to keep alive the necessary fears of the public in general and parents in particular, without which there could be no justification for what many suggest amounts to the persecution of a small minority of criminals, most of whom never reoffend anyway and all of whom are branded for life just as surely as though they had a number tattooed on their wrist.

What is worse, all the while this has been going on, successive governments have steadfastly refused to address the principal area of concern regarding abuse – that of the home.

Even the NSPCC and other child protection charities were forced to reluctantly agree that only a fraction of abuse is carried out by strangers; yet these organisations, just like governments, continue to perpetuate the myth of ‘stranger danger’ rather than look at abuse within the home environment. If they did not, they would never receive the huge amounts of money that they get, only 30% of which actually goes to the protection of children, the rest being spent on salaries and the charity itself.

MPs do not want to go there either because they fear a political backlash. Like the charities, police, child protection ‘experts’ and probations officers, they instead find it much easier to make capital out of those who have already been convicted whilst simultaneously ignoring the 90% of abusers who are fathers, mothers, brothers, sisters and family friends.

The public are no better, fearing to talk about abuse in the home in case the authorities come in and rip the family apart. Much easier too for members of the public to rely on the ‘monsters’ and ‘fiends’ portrayed by the cheap newspapers rather than to admit that they may be living with an abuser.

TheOpinionSite.org believes that if Britain is now at the stage where it is prepared to experiment on prisoners, mainly because they cannot fight back, it is time that they gave up criticising Hitler, Saddam Hussein, the present Syrian administration and other ‘inhuman’ regimes. The fact is that by coercing and effectively blackmailing prisoners into being used as lab rats, the British are proving themselves to be no better. Certainly, it is true that the Americans have been there before us. Even they now agree that their sex offender management protocols are a disaster; yet, as always, the British seem intent on following them.

How long will it be before sex offenders have to wear a badge in public? If you say it cannot happen here, you are completely wrong. It already happens in the United States with registered sex offenders details published on the Internet, the requirement for them to have a sign on their house and a badge on their car, etc.

was not in his own best interests to do so, but because it was in someone else's best interests for him not to do so. Jordan could not have known that by acting on advice designed to maintain the best interests of another, he would be damaging his own best interests.

But it is the “real possibility” test, as highlighted here, which appears to have hog-tied the decision making powers or possibilities of the CCRC. The Commission's conclusion is that it “did not consider that there was any real possibility that the Court of Appeal would be persuaded….” Therefore, cases can only be “reviewed” in the very narrow confines of what it is thought will persuade the Court of Appeal that a conviction is unsafe. Any semblance of an independent Review Commission evaporates when that Commission is working within the confines of the very body whose findings it is supposed to be reviewing.

There is no remedy to be had for Jordan Towers, when the CCRC cannot refer his case back on the grounds that his basic human rights were denied. There is no remedy to be had for Jordan Towers when the CCRC cannot address the fundamental issue that Jordan was charged and convicted of murder, but that charge could not have stood without being rooted in Joint Enterprise doctrine.

The purpose of a review commission, most would believe, would be to consider cases where clear injustices have occurred, and to address both those injustices themselves, and the causes of those injustices. Tied by the “real possibility test” the CCRC is incapable of addressing any issues which fall outside of that narrow remit, regardless of the extent to which those issues may have contributed to, or resulted in, injustice and unfairness occurring. This strictly legalistic approach allows many cases, such as Jordan Towers', to slip through the net.

Yet to return momentarily to the Human rights Act, Article 7 requires that the law must be clear so that people know whether or not what they are doing is against the law.

Where is the clarity which informs citizens that simply being in the vicinity of the commission of a crime is against the law? Where is the clarity which informs a 16 year old youth that the throwing of a rock which strikes nobody can see him convicted of murder? Where, indeed, is the clarity that a charge of murder, which could not stand alone, can still be the basis for a conviction for murder, by the simple utilisation of other doctrines?

These are issues which the CCRC does not, and cannot address. Yet where do those who have suffered injustice turn, when the body they believe can review their cases impartially, and remedy the failings which have led to those injustices, cannot do so?

Written by Author and Researcher Sandra Lean

N.B. Following the publication of this article, Jordan Towers has won the right to have a Judicial Review of the CCRC's decision not to refer his case. He is currently awaiting a date for a full hearing of that review.

Jordan Towers: A0274AE, HMP Frankland, Brasside, Durham, DH1 5YD

Claire Gray jailed for life for killing brother Ashley

A County Durham woman killed her brother so she could go back to jail has been sentenced to life in prison. Claire Gray, 22, from Ferryhill, will serve a minimum of 12 years Ashley Gray gave her a 13-inch carving knife and dared her to attack someone, saying "go on then", He died from a stab wound to the chest Judge Peter Fox QC said it was a "tragic case". The court heard Gray had written on Facebook that she wanted to stab someone so she could go back to jail, saying she had no real friends on the outside. Gray had already spent time in jail after being sentenced to three years in 2009 for stabbing one of her brother's friends. BBC

New

Am I doing Time or is Time Doing Me

I Jonathan Kelly was born in the East end of Glasgow 13th September 1980, my parents Pauline and James Kelly. I was soon parted from my father as he was convicted of murder in 1983 of a rival gang member at a party in Easterhouse. He was released in 1997 only to be re-arrested in 1998 for possession of 2 Kilo of heroin, 90 grand, a stun gun, semi-automatic handgun, silencer, cable ties, Balaclava, local media referred to it as an assassins kit! By some stroke of luck with his previous form he only got ten years and done the first three years in special units in HMP Shotts and HMP Peterhead. He was released in 2005 and as far as I know is still at liberty on a life license; I do not talk to him.

My mum, brought me up after my dad's incarceration, then we moved to the other side of the city 'Pollokshields' where I stayed until I was eleven. At school I was suspended for fighting, expelled from secondary school for assaulting the head teacher. I still managed to leave school with seven GCSEs.

I went to stay with my dad's brother (1992/1993) Sandy in South London, Clapham & Croyden. I started to go to Chelsea matches with my big cousin and friends to fight fans of other clubs, West Ham, Spurs, and Milwall. Every year at Gay Pride, we battered the Gays. When at matches I was mixing with the 'Chelsea Head-hunters', I was looked on by them as game. So I was also there for rearranged fights with other football firms. There was an awful lot of gay bashing back then that was not just for fun.

[The Chelsea Head-hunters had rivalries with counterparts who followed other London teams, such as Arsenal, Millwall, Queens Park Rangers, Fulham, Tottenham Hotspur and West Ham. There was widespread racism amongst the gang and links to various white supremacist organisations, such as Combat 18 and the National Front, and to Northern Irish loyalist paramilitary organisations, such as the Ulster Defence Association and Ulster Volunteer Force.]

I left home at 15 because I didn't get on with mum who now had a 3-year-old daughter, my sister Louise. I am not close to her. I went to a hostel 'Hamish Allan Centre' I got involved with the wrong crowd. I had previously been arrested a few times for assault but only got fines or community service. My 1st remand was in HMYOI Longriggend, charged with attempted murder (Pollokshields). March 1997 fully committed, I had paralysed a guy for hitting his woman, stabbed him repeatedly with a machete but pleaded gaily to a lesser charge of assault to injury, repeatedly punching and kicking head and body. May 1998 pleaded guilty and after three weeks report, I got three years probation and 250 hours community service. The media wrote 'Teenage thug helps damsel in distress'.

From then to 2002 I was in and out for similar charges but usually on remand. I was found not guilty due to lack of evidence. My only sentence before this was 15 months for hitting a guy with a chisel. My time in YD's 1997 to 2001 was never out of segregation, for assaulting other prisoners, pp9 batteries, weight about four and a half ounces, wrapped in a sock, chair legs, slashing's and scalding's, which I done a lot of time in segregation for.

I was libbed from HMP Barlinnie segregation 8th February after 15 months only to be re-arrested for two multiple stabbings and armed robbery April 2002. Pleaded guilty to assault injury danger of life and robbery and other charges were dropped. I got eight years (October 18th 2002, Evening Times). While on remand in HMP Barlinnie I told the screws not to put another con in my cell or I would be forced to hurt him. They put me in with a guy 20-years-older than me, an Irish guy, Hugh Friel ex IRA. After only a couple of hours of being in the

else holds the keys to a person's freedom, that person is likely to go along with whatever the key-holder says. If a prisoner officer suggests that a prisoner may not be released unless he volunteers for a particular course of action, the prisoner is likely to volunteer very quickly without much thought.

The pilot scheme at HMP Whatton in Nottinghamshire includes chemical castration but mostly involves anti-depressants. "The prisoners are all volunteers", criminal psychiatrist Don Grubin of Newcastle University said. A Ministry of Justice spokesman said: "Medication can be used in conjunction with other approaches to managing the risk of sexual offending, such as multi-agency public protection arrangements and accredited sex offender treatment programmes. "We are looking at the best ways to deliver this service, which is why we are carrying out pilot schemes at HMP Whatton and in the East Midlands probation region."

How interesting that these measures should be referred to as 'a service'. Maybe that is intended to make them respectable. It should also be noted that the 'sex offender treatment pogrammes quoted by the MOJ spokesman are accredited by an MOJ and Prison Service appointed 'panel of experts', not by any truly independent source.

Mr Grubin went on to say that the treatment was used for offenders with "a high level of sexual arousal or intense sexual fantasies or urges who aren't responding to psychological treatment". What Mr Grubin was careful not to say was that there is already huge doubt as to whether the 'psychological treatment'', offending behaviour courses by another name, actual works anyway. Successive governments have wasted millions on such courses and still refuse to take heed of any research which does not support their use.

So far, in its obsession with both the treatment and punishment of convicted sex offenders, together with its refusal to acknowledge that most abuse takes place in the home and is not carried out by strangers at all, successive British governments have potentially wasted billions of pounds on courses and other measures that may in fact only reduce reoffending by less than 5% and which may in fact not reduce offending at all.

The truth is that most sex offenders do not reoffend anyway for a variety of reasons and that offending behaviour programmes are used by probation officers primarily as risk-assessment tools rather than with any expectation that they may actually reduce reoffending. The delivery of these courses also keeps armies of otherwise unnecessary people employed.

TheOpinionSite.org believes however that where the use of potentially addictive drugs are concerned, decisions as to their use, particularly on prisoners who cannot give free consent, should not be left to trainee psychologists and young, inexperienced probation officers anxious for career progression.

Most psychologists in the prison service are indeed trainees, usually overseen by a qualified forensic psychologist who is part of the establishment. The use of independent assessors is rare due to the cost and this only makes the situation worse, given the secretive nature of how the prison and probation services function.

Though members of the public, who are often fed a diet of lies and misinformation by both tabloid newspapers and politicians – including power hungry Home Secretaries – may think that any form of castration for sex offenders is a good thing, they usually change their view rapidly when their husband, brother or boyfriend finds himself convicted of a sexual offence, often on little or no evidence. The fact that these horrendous experiments on prisoners being carried out at HMP Whatton have been kept secret from the public for so long, only increases the likelihood that the authorities have something to hide.

Mr Grubin continued, "You are not giving these drugs to make them safe – you are giving

judge gave and which the authorities dictate must be subtracted from the starting point first before credit for a guilty plea is given (see in particular R v Wood [1997] 1 Cr.App.R (S) 347) in as much as it might have been adequate to reflect the value of the assistance given, did not properly reflect the points made on the appellant's behalf, and in particular the public policy considerations to which the court was referred, such that those who may in the future be minded to enter into section 73 agreements will be able to do so in the knowledge that a significant discount in sentence will be given if they do all that they are required to do in pursuance of the agreement.

Held: "We are of the view that a discount in the level of sentence should have been in the region of 20 per cent and that one of merely 10 per cent was wrong in principle. Accordingly, we reduce the sentence to reflect this reduction in discount from one of seven years' imprisonment to one of six-and-a-half years' imprisonment."

R v Elliott [2012] EWCA Crim 317 Solicitors Journal, 16/03/12

The Solicitor General sought leave to refer under section 36 of the Criminal Justice Act 1988 a sentence passed on the defendant, Neville Elliott, for burglary. The Recorder imposed a community order for two years, with a drug rehabilitation requirement, for 12 months. She ordered him to do 200 hours unpaid work and to report for participation in a restorative justice programme.

In refusing leave (and it is worth reading the comments in full) the court said the following: - "This decision, we are entirely satisfied, was fully justified. It was not reached out of starry idealism. It was based on hard evidence and in the face of clear knowledge of what the ordinary tariff is for this kind of offence. It is the function of a sentencing judge to make difficult decisions such as this. When they do so on reasoned grounds this court will not interfere. The jurisdiction to refer under section 36 is important and valuable for those cases where the judge has made a serious or fundamental error. It must not however be used when the judge has made precisely the kind of judgment that she has put in place to make on reasoned grounds. Nor must it lead to anyone overlooking the essential fact that a tariff is a tariff for the general, whereas every judge has to sentence the particular."

UK sex offenders being used in chemical castration experiments

'By Raymond Peytors - theopinionsite.org, 19th March 2012

Prisoners should never be experimented on: An experiment designed to 'chemically castrate' sex offenders, all of whom are supposedly 'volunteers', is being carried out by the Prison Service. The scheme is fully backed by the Ministry of Justice which said it supports the use of drug "intervention" for some high-risk offenders.

However, some believe that it is not possible for the prisoners, often afraid of never being released, to freely 'volunteer' for anything, let alone something so potentially damaging and which was previously demanded by tabloid newspapers and populist politicians, child protection charities and women's groups.

With many sex offenders already serving indefinite sentences (IPP) with no defined release date, TheOpinionSite.org is not alone in suspecting that if a prisoner does not 'volunteer' for the controversial and unproven drug treatment, he may never be released. With existing offending behaviour courses for example, which are also supposedly 'voluntary', history shows that if the prisoner does not volunteer to undertake the programme, in most cases he is simply not released.

The idea that any prisoner can ever give free consent for anything is ludicrous. If someone

same cell, I cut his throat and repeatedly slashed and stabbed him. If it hadn't been for night staff, hearing commotion and running in, he would have died.

I pleaded guilty and got (Daily Star, January 2004) a five-year consecutive sentence and five years extended. Put back in segregation until moved to HMP Kilmarnock, November 2002. Lasted only three or four months before assaulting two prisoners. While back in segregation screws tried to play mind games, throw their weight about. So that's when I started to assault them. I attacked three of them in the space of three days; took one of them hostage and tried to force them to open another convicts who was getting cheeky with me. I was going to stab him, it ended with me assaulting the screw and getting rugby tackled by about twenty screws.

I was moved to HMP Perth segregation in October 2003; where I was put on Special Security Measures (SSM), Scotland's A Category. I reacted by going on dirty protest for months on end and attacking the screws at any opportunity I got. As per the requirements of SSM I was classified as a strict escaper and required to be observed at 60-minute intervals during patrol periods. Staff had strict instructions, 'When Mr. Kelly's cell door is opened a minimum of four staff will be in attendance at all times, one must be at least a First Line Manager. All staff must wear full protective clothing and carry a short shield'. Meals issued on disposable plates/bowls and with disposable cutlery. Meals delivered to Mr. Kelly's cell and within a reasonable period (suggest 30 mins but ???), staff must return and remove all plates /cutlery issued. Breakfast issue cereal and jam, no preference. All other meals as per menu. There can be no exceptions to this direction. Pre-arranged spokesperson. Only spokesperson to communicate with Mr. Kelly and spokesperson to control content and duration of communication. Change spokesperson routinely.

I would have 5 month, 6 months, 19 months, 4 months, 3 years (February 20010) all consecutive for assaults on staff in HMP Shotts, Glenochil, Edinburgh, Barlinie, Addiewell. Five years plus five years extended for cutting my cellmates throat. Seven High Court trials but only three of them ended with convictions.

In May 2006 I stabbed a first line manager in the eye in HMP Shots, segregation unit. He was an ex heavy weight boxer who was notorious for his violence on prisoners; has now been sacked for a serious assault on a prisoner.

In August 2005, September 2008 I seriously assaulted a screw in HMP Barlinnie Scott Durnion now charged along with three other screws for assaulting me. Scott Durnion was a pumped up steroids abuser who liked to throw his weight about.

[Daily Record Oct 26 2008: Two prison officers have been suspended after confidential information was allegedly leaked to a violent inmate. Warden Scott Durnion has been accused of supplying details from a Barlinnie prison computer to knife thug John Kelly. And his boss Chris Surgenor has also been ordered to stay at home for allegedly failing to stop the leak.]

In November 2008 I again stabbed a screw in retaliation for assaulting me, 4 times in face, head. This happened in the segregation unit in HMP Kilmarnock, it was revenge for what happened in HMP Barlinnie.

March 2010 I assaulted a screw, coshing him in the face with a plug and throwing a bucket of shite and piss over another one. This was at HMP Addiewell because I was told before being moved to Addiewell, once there I would be put on a main wing, but when I got there the governor refused to allow me on to the main wing.

In November 2007 I stabbed the segregation pass man in HMP Edinburgh. I also went on a dirt protest that lasted seven months; I came off it in May 2008. In that time I had nothing, fed through a hatch in the door.

Before I was let out of segregation to be in the hall. I was segregated from March 2003 to August 2007 solid. 15 days off this, I was back in segregation for 2 assaults on prisoners. Didn't get out of segregation again until November 2010.

Since then I've been in and out for 'intelligence' or assaulting other convicts. No charges were brought to court; it was suspicion that I was involved in something.

This is the longest in main hall, five months with out incident. I have had no reports in this time screws keep away from me. Prisoners know about my reputation, so there is no one willing to take me on. As I will not hesitate to inflict serious damage.

I could be out in September 2013 and on license until 2027, but would only be released and if released managed, under Multi-Agency Public Protection Arrangements (MAPPA 3).

Jonathon Kelly: 37635, HMP Perth ,3 Edinburgh Road, Perth, PH2 8AT

R v Ullah [2011] EWCA Crim 3275

This is an appeal against conviction which raises the issue as to what a trial Judge should do if a surprise witness, in support of the defence, turns up at the last moment after the defendant's defence has closed its case. The appellant was convicted of racially aggravated intentional harassment, alarm or distress.

The defence closed their case on the 15 September. On 16 September Counsel told the Judge that the alibi witness was at court and available as a witness for the defence. Apparently he had at that stage not obtained any proof of evidence, there was no attendance note and there was therefore no statement before the Judge, let alone the prosecution, as to what he could say.

The Judge, however, ruled that the evidence should not be given and refused to allow the defence to reopen their case. The Judge identified the stage the case had reached, that the defence case had been closed at 3.50pm, that there had been a discussion as to directions and by 11.15 the following morning the case was ready for speeches and summing-up. He recorded that the first time the gentlemen had been mentioned was by the defendant in his evidence in cross-examination. He said nothing was said about the witness in the defence statement and that no detail was given of the alibi witness. That was true, although the Judge ought to have referred to the fact that alibi was mentioned in the defence statement and that the alibi was that at the time when this offence was supposed to have taken place at 9.30 he said he was at work.

The court took the view that the Judge had fallen into serious error. It is true that he did not have a proof, or an attendance note, or any written document stating what the witness was proposing to say. That could easily have been remedied. A short adjournment would have enabled any written proof to have been obtained.

"Further, in light of the fact that the witness was there it would surely have been easy to identify that he was the person he purported to be and take statements, or make enquiries of him, without unduly disturbing the jury. None of that happened. In those circumstances there was no basis whatever for concluding that the witness had nothing of any use to say. On the contrary, the judge's view seems to have been that because anything he said would not be capable of belief, therefore he should not have been called. That was a wrong approach. The Judge was not entitled to form his own view as to the credibility of a potential witness, and on that basis rule that his evidence could not be given. Still less was the Judge entitled to refuse to allow the witness to be called because of the stage the trial had reached."

The court found that the judge erred seriously in principle in taking the view that the fact that he had not been mentioned earlier was a basis upon which he could refuse to allow

Convention on the Rights of the Child" said the Commissioner. [We agree that the current level of secure remand for under-18s is disproportionately high. Kenneth Clarke]

"This approach is counter-productive. Youngsters who are imprisoned tend to re-offend upon release; the re-offending rates remaining above 70% in the United Kingdom. Arrest, detention and imprisonment are in principle possible for minors above the minimum age of criminal responsibility, but should only be used as a measure of last resort and for the shortest period possible. Alternatives to imprisonment should be sought in order to improve the response to juvenile crime and violence." The Commissioner referred to some promising developments mentioned in the Lord Chancellor's reply to his letter and encouraged the authorities to continue their efforts to improve this situation.

The very low age at which children could be subject to criminal procedures remains a serious concern. The Commissioner recommends that the Government considerably increase the age of criminal responsibility to bring it to a minimum of 15 years, which is the average level in the rest of Europe.

Children accused of breaching Anti-Social Behaviour Orders are still dealt with in criminal courts. "Children should not be imprisoned as a result of breaching a civil order. The authorities should adopt alternative approaches." The Commissioner hopes that the ongoing consultation process, referred to in the reply of the Lord Chancellor, will resolve this problem by ensuring that the breach of a civil order no longer leads to a criminal sanction.

The Commissioner is also concerned by the fact that the separation of juveniles from adult offenders is not always ensured in Northern Ireland. "The recommendation of the Criminal Justice Inspection for Northern Ireland to move all children from Hydebank Wood Young Offenders Centre by April 2012 should be implemented. This is all the more necessary in the light of reports indicating that the mental health and educational needs of children are not met in that institution."

Children in Northern Ireland are also disproportionately targeted by stop and search operations by the police. "Minors have been searched 2 500 times in the second half of 2011 alone. This trend risks weakening the trust between law enforcement bodies and citizens, including children. A review of this policy is therefore necessary."

Lastly, the Commissioner calls for stronger protection of the privacy of young suspects, preventing cases of vilification of children in the press and avoiding the disclosure of criminal records, which have potentially grave consequences on a young person's opportunities in life.

The letter is a follow up on the Commissioner's Memorandum to the UK on the rights of the child, as well as on his recent visit to the United Kingdom, which included meetings in Northern Ireland.

R v McGarry [2012] EWCA Crim 255 Solicitors Journal, 16/03/12

An appeal against sentence on the single ground as to credit to be given to this appellant by reason of his having entered into an agreement with the prosecution, pursuant to sections 71 to 75 of the Serious Organised Crime and Police Act 2005.

The appellant pleaded guilty to two counts of conspiracy to obtain money transfers by deception and four counts of obtaining a money transfer by deception. He was sentenced to seven years' imprisonment on each count concurrent.

Shortly before his plea the applicant indicated that he was willing to give evidence for the prosecution. He was interviewed extensively but the decision was taken that he would not be called as a prosecution witness. There were doubts that anything he said could be of real value but it could not be excluded that he had approached the matter in good faith.

The appeal court was persuaded that the level of discount of 10 per cent which the learned

He is the latest in an honourable line of inspectors to make such criticisms: any right-thinking person who has any sort of contact with criminal justice does, sooner rather than later, say the same things about the imprisonment of women and the conditions in which they can be held. I doubt that any one of the recent prison inspectors has had easy sleep.

The statistics are shocking – and they always are: women make up only five per cent of the prison population, but account for almost half of all self-harm incidents inside; almost half of all women prisoners have abused alcohol at dangerous levels; half are drug users.

Of the general prison population almost one in three were in care as a child compared with one in 50 of the population as a whole; prisoners are ten times more likely to have been excluded from school; one third were homeless before custody and two thirds were jobless; three quarters suffer from one or more mental disorders. There must be a statistic somewhere about how many present prisoners had a father or, more pertinently perhaps, a mother imprisoned during their childhood.

Rejected reforms: Hardwick made his speech in February 2012. In March 2006 Patricia Scotland, then minister at the Home Office, commissioned Baroness Corston to conduct a review of women in the criminal justice system who had particular vulnerabilities. The primary trigger for the report was a series of six self-inflicted deaths of women prisoners at HMP Styal in one year.

The Corston report was a wonderful piece of work. It had 43 recommendations including one that went to the heart of reform: to replace existing women's prisons with small multi-functional custodial centres geographically dispersed, with no more than 20 to 30 women there able to access a range of rehabilitative help. Localism was key to this – giving a chance for women and their families to stay connected during the sentence. Corston suggested that such units be phased in over ten years, and that work start within six months of the report's publication. While some of her more minor recommendations were accepted by the then government, not all were – and the huge central reforming one was rejected. Apparently it was not practical, not desirable, and not likely to deliver the full range of services women need.

So, there are still 14 women's prisons, large and far away, still with grim hell holes which keep inspectors awake at night. And there are still women in prison who should not be there: not just because of their personally damaged psychologies, but because of two problems that Corston identified six years ago. She expressly laid out that custodial sentences for women should be reserved for serious and violent individuals who are a threat to the public. Sixty-eight per cent of women are in prison for non-violent offences, compared to 47 per cent of men – and the overall numbers of women in custody are going up.

Corston also recommended that women unlikely to get custodial sentences should be identified, and not remanded pre-trial. This was ignored, and the numbers are not just the same – but are going up. - *What the Dickens is going on here?*

"United Kingdom juvenile justice system should focus more on rehabilitation"

Thomas Hammarberg, EU Commissioner for Human Rights, 15/03/2012

"Despite some progress, the system of juvenile justice in the United Kingdom remains excessively punitive. The state's response to juvenile crime should focus more on rehabilitation" stated Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in releasing a letter addressed to the UK Lord Chancellor and Secretary of State for Justice, Kenneth Clarke.

"The relative ease with which children are put in custody raises questions as to the compatibility of this approach with the European Convention on Human Rights and the UN

him to be called. The principles are plain. They are to be found in section 11 of the Criminal Procedure and Investigations Act 1996. The failure to mention those facts further would have been a basis, if it had been appropriate to do so, for comment both by the prosecution and by the Judge (see section 11(5)).

The principle that was breached by the Judge was the principle that it is not permissible to sanction a failure to mention a witness earlier, let alone an alibi witness, by refusal to allow that witness to be called. If authority is needed for so plain a proposition, it is to be found in R (on the application of Tinnion) v the Reading Crown Court [2010] RTR 263, [2009] EWHC 2930 (Admin), particularly at paragraph 8.

Held: "This was, in our view, a serious defect in the conduct of the case leading to a substantial unfairness. We are unable to say to what extent the witness would have helped since he has still not given a statement, but for the reasons we have given we are unable to say that this conviction is safe, and in those circumstances we shall allow the appeal and quash the conviction."

Prisons: Assisted Prison Visits Scheme House of Commons / 14 Mar 2012 : Column 300W

Karl McCartney: To ask the Secretary of State for Justice (1) what the purpose of the Assisted Prison Visits Scheme is;

(2) what assessment he has made of the benefits to the public of financially assisting the spouses of convicted criminals to visit them in prison; [99983]

(3) cost to the public purse of the Assisted Prison Visits Scheme in each of the last three years.

Mr Blunt: The Assisted Prison Visits Scheme provides financial help with travel expenses to prisoners' close relatives and partners who are on a defined benefit and receive a low income. The scheme's purpose is to contribute to reducing reoffending and resettlement strategies by helping to ensure that family ties are maintained. The Ministry of Justice (Mo J) actively encourage prisoners to maintain outside contacts and meaningful family ties. Visits are crucial to sustaining relationships with close relatives, partners and friends.

The MoJ Resettlement Survey 2008 showed that offenders could be 39% less likely to reoffend if they had family visits while in custody. Lord Justice Woolf's report of 1991 made a recommendation that prisoners should have better prospects of maintaining their links with families through more visits and in his follow-up report exactly 10 years later makes specific reference to Assisted Prisons Visits and described it as "admirable".

A recent report commissioned by the EU entitled 'Children of Imprisoned Parents' highlighted the importance of providing financial assistance to families of prisoners.

Early Day Motion 2876: South Yorkshire Trust Prisons Bid

That this House notes with great concern the decision of South Yorkshire Probation Trust to enter into agreement with G4S Security Services for the purpose of bidding to run the three Yorkshire prisons: HM Prison Lindholme, HM Prison Moorland and HM Prison Hatfield; understands that this has resulted in 20 probation officers currently seconded to offer rehabilitation in those jails being locked out because of a supposed conflict of interest; further notes that with Humberside Probation Trust being part of the in-house bid this would mean two probation trusts publicly competing with each other for business; is aware the probation trusts are publicly funded bodies and believes that no public funds should be used as part of any commercial bid to run what essentially will be private prisons; and calls on the Government to confirm the long-standing commitment that prisons and probation should work closely together to

assist with rehabilitation. Primary sponsor: Elfyn Llwyd, date tabled: 15/03/2012

Fifth of psychological expert witnesses are 'inadequately qualified'

One fifth of the psychological expert witnesses instructed to give evidence in family cases are “inadequately qualified”, a report by the University of Central Lancashire has found. The report, by Professor Jane Ireland, which examined 126 psychological reports from 180 court bundles, rated two thirds of the reports as “below the expected standard”. It found that 90 per cent of instructed experts maintained no clinical practice outside the provision of expert witness reports and in one court all the reports were generated by witness companies.

Ireland said the research was the first into the quality of expert reports in this area. Her report recommended that only experts who were actively engaged in non-legal practice should be instructed. It called on judges to be more thorough in assessing the competence of experts and said expert witness commissioning companies should not be relied on as a “marker of potential good-quality reports”.

Ireland said that although there were some “unavoidable limitations” in the study, such as sample size, she was concerned about the limited qualifications and clinical experience. “The under-use of recognised methods to assess risk in cases involving domestic violence, general violence and sexual violence, experts commenting on mental health and yet having no demonstrable background in that area, are significant areas worthy of further research.”

Dr Heather Payne, chair of the experts committee of the Family Justice Council, which partly funded the report, said: “The family justice review highlighted the need for more intelligent and selective use of expert evidence in family proceedings and this study is a starting point for moving in this direction.

“The Family Justice Council has argued that the cause of much unsatisfactory expert evidence in the family courts is due to poor letters of instruction from the solicitors commissioning the reports – this can lead to the expert being asked to address the wrong questions. “Flawed experts reports are unlikely to mislead the court to the extent that perverse decisions are taken, but flawed reports do not assist the court in its decision-making and there is a need for better quality control.” Solicitors Journal, 14 March 2012

Outline on progress of Victor Nealon Case with CCRC

Victor Nealon has now been detained in prison for 17 years for a crime he did not commit. Two unsuccessful appeals against his conviction and two botched reviews by the Criminal Cases Review Commission (CCRC) are still having an impact on Victor's progress.

In August 2011 the CCRC Case Review Manager (CRM) informed Mark Newby of Jordan's Solicitors that he was in the decision making phase. This came about after Mark Newby had found new independent DNA evidence which completely cleared Victor of the crime and showed the assailant to be another male person as yet unknown. This DNA evidence had not been presented at the original trial. In fact the Police and the CPS misled the court by stating that there no untested DNA evidence to be presented to secure conviction.

Up to this point (August 2011) the CRM had been open and reasonable about the sharing of information but suddenly refused to engage with Mark Newby and share information as had previously been the case. This change in working relationship was challenged by Mark Newby but was told that no complaint could be investigated while the CRM was in “the decision making phase”. This position has lasted until the end of February 2012. At that point we were informed by the CRM that he had “significant new information” which he would need permission from his superior before the nature of the information could be shared with either Mark

Newby or more to the point with Victor Nealon himself.

The next twist in the case is - the CRM is referring his findings to a group of 3 commissioners who are believed to be the people who will either refer the case to appeal or refuse the appeal. There is no intention by CRM to disclose the “new significant information” or apparently do the 3 commissioners have to disclose this new information. We have been informed that the referral to the “gang of three” by the CRM will take until the end of April 2012- I deliberately use 2012 and not 2013. Then we are informed that the “gang of three” will take a further 3 months to make a decision to refer or reject the application for appeal to the Appeal Court - Criminal Division.

This position taken by the CCRC is wholly unsatisfactory. What we are seeking to establish - Is this standard practice by the CCRC?

Has anyone else experienced this type of tactics and how has it been dealt with? Are there any case law examples that we can examine that will help us to change this position and speed up the “decision making phase”. We welcome any help and guidance from any source that will enable us to move this forward and speed up the “decision making phase” of the CCRC.

The supporters of Victor Nealon call for the reform of the CCRC as a starting point to an over haul of the judicial system and in particular the Court of Appeal. We accept that to abolish the CCRC without taking the reform to a higher level may well not be enough. We state that there is a desperate need to reform the CCRC with over 2,600 cases waiting for a decision. We also state that reform must involve sweeping changes in personnel at the CCRC as the founding principles for the CCRC had the potential to be able to resolve cases of miscarriages of justice but the root of the problem is the capability or willingness of the CCRC to be truly “Independent”.

Supporters of Victor Nealon Group - Messages of Support/Solidarity

Victor Nealon: HMP Wakefield, Love Lane, Wakefield, WF2 9AG

Behind Bars: Dickens today would write about the Plight of Women in Prison

Prisons are no place for the majority of women offenders but still this is where they are sent.

By Jeannie Mackie, Solicitors Journal, 12th March 2012

Where is Charles Dickens when one needs him? In this anniversary year we are awash with commemoration of the greatest social reformer ever to write unputdownable novels – but however many readings of his works, memories of his life and reconstructions of his prose there might be, that authentic passionate voice cannot be heard again.

If by some magic he could be reincarnated, pens, quills, ink and all, what would he write about in our wondrous technological Facebooked twittering century? He would of course be a script writer for soap operas, and would crank out movie scripts by the shed load – but the themes which obsessed him would almost certainly be the same. Poverty, the heartless state, child abuse, the failures of education and prisons, particularly women’s prisons: still a rich seam of material for invective and despair.

Nick Hardwick, her majesty’s inspector of prisons may seem an unlikely successor to the chronicler of the Marshalsea, but his speech last month to Sussex Law School was both hard hitting and heart felt. He said that the circumstances of the women held in the Keller unit of Styal Prison in Cheshire were more shocking and distressing than anything he had yet seen on inspection – the levels of self-mutilation and despair there had kept him awake at night.

He pointed out – again – that prisons as they are currently run are no place for the distressed, damaged and disturbed women which they hold. And he certainly did not pussyfoot around as to where the responsibility lay – squarely at the door of successive governments and parliament.