East Sutton Park is a very safe place. There were supportive reception and induction arrangements, although some women found joining established groups in dormitories or in the communal dining area intimidating. While there had been no incidents of self-harm for some time, women at East Sutton Park had many of the same experiences and vulnerabilities as other women in prison and the recent withdrawal of a well used counselling service had left a real gap. Illicit drug use was virtually non-existent so some testing procedures seemed unnecessary.

Lloyd Butler custody death: Misconduct hearing call BBC News, 2nd May 2012

Relatives of a man who died in custody have called for the officer who dealt with him to face misconduct charges. Lloyd Butler, 39, from Birmingham, died after being arrested when his family called police because he he was drunk. The Independent Police Complaints Commission (IPCC) investigated his death, in 2010, but have not made their report public. Law firm Irwin Mitchell backed Mr Butler's family, saying the IPCC report shows he was given "unacceptable" care.

Mr Butler died within hours of being put in a cell in Stechford police station, at 1215 BST on 4 August. Officers checked on him at 1515 BST and then started first aid. He was taken to hospital but declared dead. Police referred the death at Stechford police station to the IPCC, who began investigating on 5 August.

Irwin Mitchell said Mr Butler was an alcoholic with anger management problems. However, at the time of his arrest the law firm said he was not being violent but was unable to talk or walk without help. He was found to have died from heart and liver failure, according to the solicitors.

According to the firm, the IPCC report found that officers failed to observe Mr Butler properly, made improper records to suggest he had been checked more frequently, and made derogatory remarks. The officers also failed to report he had hit his head and made offensive remarks instead of helping when his trousers slipped below his waist, Irwin Mitchell said of the report.

The solicitors said the report recommends that an officer responsible for Mr Butler should be charged, two other officers should face misconduct charges and several others should receive further training or action from management.

West Midlands Police said they had "co-operated fully" with all requests made throughout the independent investigation and are aware the IPCC is currently reviewing its findings. A spokesman said: "We do not underestimate the impact this incident has had on the Butler family, and the wider community and the force again extends its sincere condolences to Mr Butler's family and friends."

An IPCC spokesman said they will await the results of a further inquest before publishing its report A spokesman said that in the light of Irving Mitchell's representations one of their commissioners is reviewing the case, looking at any misconduct issues and the question of a public hearing.

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

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MOJUK: Newsletter 'Inside Out' No 370 03/05/2012)

Marcus Ellis, Rodrigo Simms, Nathan Antonio Martin v.United Kingdom

Anonymous witness evidence did not affect the fairness of trial in gang shooting case

[Charlene Ellis Letisha Shakespeare died when a sub-machine gun was fired outside the Uniseven hair salon in Aston, Birmingham on 2 January 2003. In the 2005 trial into the killing of Charlene and Letisha the jury heard from witnesses other than the anonymous ones]

European Court of Human Rights case 184 (2012) handed down 25/04/2012

In its decision in the case of Ellis and Simms and Martin v. the United Kingdom (application nos. 46099/06 and 46699/06) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the applicants' complaints that they had been convicted in an unfair trial as a result of the decision to allow an anonymous witness' evidence against them. Principal facts: The applicants, Marcus Ellis, Rodrigo Simms and Nathan Antonio Martin, are British nationals who were born in 1980, 1984 and 1978 respectively and are currently detained in prison.

In January 2003 two young women were killed, and two others were injured in a shooting outside a party at a Birmingham hairdressing saloon. It was undisputed that the shooting was gang-related, and the prosecution case was that it had been carried out by members of the Burger Bar gang in a revenge attack on members of the rival Johnson Crew gang. The victims of the shooting were not members of either gang and were caught in the cross-fire. The applicants were charged with murder and attempted murder. The prosecution relied on evidence as to the purchase of the car used in the shootings as well as telephone calls made by the applicants, including cell site evidence providing information on the locations from which the calls were made.

Witnesses to the shooting were generally unwilling to come forward fearing retaliation. Only five witnesses were prepared to make statements but did not want their identities to be disclosed. One of the witnesses, who was given the name "Mark Brown" for the purposes of the trial, claimed to have seen Mr Ellis and Mr Martin in the car from which the shots were fired. Background information about the witnesses was disclosed by the prosecution. It was disclosed that Mark Brown had links to the junior arm of the Johnson Crew and that he had a grudge against three of the people in the car. Details of his criminal background and prison terms served were also disclosed.

The trial judge allowed Mark Brown to give anonymous evidence at trial. He noted that it was not disputed that Mark Brown reasonably feared retribution both personally and for his families if his identity were made known. He considered the possible support for Mark Brown's evidence and the relevant case-law of the European Court of Human Rights on the right to a fair trial. He examined closely the different interests involved, namely of society and victims to have criminals tried and punished, of witnesses to be protected, and of the accused to be able to properly defend themselves. He noted that there had been extensive disclosure in Mark Brown's case which would permit detailed cross¬examination by the applicants' lawyers. He kept his ruling under review and revisited it a number of times following further disclosure and on the invitation of the defence.

Prior to Mark Brown taking the witness stand, the judge directed the jury that the fact that Mark Brown was giving evidence anonymously restricted the defence in the conduct of their cases. At the conclusion of the prosecution case, the trial judge rejected a defence submis-

sion that there was no case to answer in respect of the applicants. He noted that Mark Brown had been cross-examined most effectively for several days and concluded that there was sufficient other evidence pointing to the applicants' participation in the shootings to allow the jury to consider Mark Brown's evidence. In his later summing up and directions to the jury, the trial judge highlighted the weak aspects of Mark Brown's evidence and told the jury to ignore his evidence if they doubted his reliability or were not satisfied that there was other evidence, apart from his statement, of the applicants' involvement in the shooting.

In March 2005, the applicants were found guilty and sentenced to life imprisonment. Their appeals were dismissed by the Court of Appeal which commended the conduct of the case and the rulings by the trial judge.

Decision of the Court - Article 6 §§ 1 and 3 (d) (fair trial)

The Court noted that it had recently examined the requirements of Article 6 § 3 (d) in the context of absent witnesses (as opposed to anonymous witnesses) in the case of Al¬Khawaja and Tahery v. the United Kingdom (Grand Chamber), nos. 26766/05 and 22228/06, 15 December 2011. There, it had explained that Article 6 § 3(d) enshrined the principle that before an accused could be convicted, all evidence against him had normally to be produced in his presence at a public hearing so that it could be challenged. Exceptions to that principle were possible but could not infringe the rights of the defence.

The Court observed that the problems posed by absent witnesses, at issue in Al-Khawaja and Tahery, and anonymous witnesses, as in the present case, were not different in principle. The underlying principle was that defendants should have an effective opportunity to challenge the evidence against them. However, it considered that the precise limitations on the defence's ability to challenge a witness in proceedings differed in the two cases and that different considerations therefore arose. Unlike absent witnesses, anonymous witnesses were confronted in person by defence counsel, who was able to press them on any inconsistencies in their account. The judge, the jury and counsel were able to observe the witnesses' demeanour under questioning and form a view as to their truthfulness and reliability. The extent of the disclosure regarding anonymous witnesses also had an impact on the extent of the limitations on the defence.

The Court concluded, applying the approach in Al-Khawaja and Tahery, that in cases concerning anonymous witnesses, Article 6 § 3 (d) imposed three requirements: first, there had to be a good reason to keep secret the identity of the witness; second, the Court had to consider whether the evidence of the anonymous witness was the sole or decisive basis of the conviction; and third, where a conviction was based solely or decisively on the evidence of anonymous witnesses, the Court had to satisfy itself that there were sufficient counterbalancing factors, including strong procedural safeguards, to permit a fair and proper assessment of the reliability of that evidence to take place.

In this case, the Court emphasised that there was a clear public interest in ensuring that gang-related crime was prosecuted, and that allowing witnesses to give evidence anonymously was an important tool in enabling such prosecutions. It had not been disputed that Mark Brown feared retribution had his identity been disclosed and the Court therefore accepted that there had been good reasons to permit him to give evidence anonymously.

As to the sole and decisive nature of the evidence, the Court referred to the other prosecution evidence in the case. It was satisfied that Mark Brown's evidence was not the "sole evidence" but accepted, like the trial judge, that there was a possibility that his evidence might have been decisive in respect of at least some of the applicants.

and (ii) medical grounds in each of the last five years. [105634]

Mr Blunt: Under section 36 of the Criminal Justice Act 1991, section 248 of the Criminal Justice Act 2003 (for determinate sentences) and section 30 of the Crime (Sentences) Act 1997 (for indeterminate sentences), the Lord Chancellor and Secretary of State for Justice, my right hon. and learned Friend the Member for Rushcliffe (Mr Clarke), may release a prisoner on licence at any point in the sentence if he is satisfied that “exceptional circumstances” justify the prisoner's release on compassionate grounds. These decisions may be taken by the Secretary of State, or officials acting on his behalf.

When considering applications for release on compassionate grounds, the following criteria are applied:

. . . . the release of the prisoner will not put the safety of the public at risk;

. . . . a decision to approve release would not normally be made on the basis of facts of which the sentencing or appeal court was aware; and

. . . . there is some specific purpose to be served by early release.

. . . . Compassionate release may be considered on the basis of a prisoner's medical condition or as a result of tragic family circumstances. In medical circumstances, the criteria to be applied are:

. . . . the prisoner is suffering from a terminal illness and death is likely to occur soon; or the prisoner is bedridden or similarly incapacitated; and

. . . . the risk of re-offending is past; and

. . . . there are adequate arrangements for the prisoner's care and treatment outside prison; and

. . . . early release will bring some significant benefit to the prisoner or his/her family.

Consideration for compassionate release as a result of tragic family circumstances (which only applies to determinate sentence prisoners) may, for example, be given where a spouse has died or is seriously ill and there is no-one to care for young children. Whether such an application is successful will depend upon the risk to the welfare of the children and the availability of support from other family members, friends or social services. Similarly, if a partner or parent is terminally ill, much will depend on what other help and support is available to him or her.

Report on an announced inspection of HMP East Sutton Park

Inspectors had some concerns

- Illicit drug use was virtually non-existent so some testing procedures seemed unnecessary
- living conditions for most women in small and cramped dormitories were very poor and the lack of privacy caused tension
- no wheelchair access, unfairly denied women access to open conditions
- prison received few foreign national women but late decisions by the UK Border Agency meant that some women who were successfully established at East Sutton Park were removed to closed conditions when a deportation decision was made – in one case just two days before expected release.
- some education and resettlement activities were hindered by the lack of internet access
- it was still not possible to receive incoming calls from their children
- the continuing ban on the use of mobile phones in the prison was hard to justify

The prison is small – it holds only 100 women and those it does hold are carefully selected as being suitable for open conditions. To that extent, comparisons with other women’s prisons need to be treated with caution. Nevertheless, many aspects of East Sutton Park epitomize what a good women’s prison should be.

the last three years, from ACPO's central office. The newspaper revealed last month that payments of up to £205,982 had been made to consultants, many of whom were former chief officers. The payments were nearly all made to private companies set up by the consultants.

Skipton and Ripon MP Julian Smith told MPs: "Our police leaders should be beyond reproach – but the example set by the leadership, the Association of Chief Police Officers, leaves much to be desired. "We all agree on the need for a co-ordinated approach to policing in this country...

However, the organisation that provides such leadership needs to be professional and clean – but ACPO is riddled with conflicts of interest and poor governance." The Tory backbencher listed the many private interests of ACPO – largely funded through Government and police authorities – and said the recent revelations had only emerged after it was finally brought under the scrutiny of Freedom of Information laws following changes in legislation. "ACPO is being dragged, kicking and screaming, towards transparency," Mr Smith said.

Northern Ireland MP Dr William McCrea warned that the "vagueness and the secrecy" surrounding ACPO "only lead to suspicion". And Conservative Priti Patel said it "is clear some significant concerns about transparency have been raised" and called for ACPO to "give some reassurance to the victims of crime whom it has failed through its conduct".

Mr Smith said it was vital the body now faces major reform. "Many people involved in ACPO have, at best, been negligent or, at worst, corrupt in how they managed the resources and opportunities they were granted," he said. He added: "Many of the problems at ACPO seem to have come from an arrogance, a lack of challenge from the lower ranks and a belief that command and control means that the chiefs are accountable to no one. My message to ACPO is that I and a number of colleagues will relentlessly pursue what it has been doing."

ACPO has already launched its own internal review following the revelations in the Yorkshire Post. ACPO released a statement following the debate, saying: "ACPO is the Association of Chief Police Officers, each one of whom is highly accountable to the public, a police authority, and to the law. "ACPO is subject to the Freedom of Information Act and is working with the Home Office towards reforms which preserve its vital public safety role as the body which allows for national coordination of operational policing."

Home Office Minister James Brokenshire said this showed the body is taking the matter seriously, and that the investigation must now be allowed to run its course, "ACPO has played a valuable role since it was established in 1948, providing a means for chief constables to come together to agree a common way of working," he said. "This Government fully appreciates the contribution chief constables continue to make at a national and local level."

Prisoners' Release [Compassionate grounds] House of Commons / 30 Apr 2012 : Column 1163W

Priti Patel: To ask the Secretary of State for Justice (1) how many prisoners were released early on (a) compassionate and (b) medical grounds in each of the last five years; and how many such prisoners had their release authorised by the (i) Secretary of State and (ii) prison authorities;

(2) how many prisoners serving (a) indeterminate sentences and (b) life sentences were released on (i) compassionate and (b) medical grounds in each of the last five years;

(3) how many prisoners who were released from prison on (a) compassionate and (b) medical grounds were, after release, (i) recalled to prison for a breach of licence and (ii) convicted of a further offence in each of the last five years; [105633]

(4) how many convicted (a) murderers, (b) rapists, (c) child sex offenders, (d) sex offenders and (e) violent criminals were released early from a custodial sentence on (i) compassionate

It was therefore necessary to examine the counterbalancing factors in place to permit a fair and proper assessment of the reliability of Mark Brown's evidence. The Court referred to a number of aspects of the trial.

First, the applicants' lawyers, the judge and the jury had all been able to make their own assessment of the reliability of Mark Brown's statements, given that they all could see and hear him give evidence and could therefore observe his behaviour during the trial.

Second, the trial judge had ruled on the question of the admission of Mark Brown's anonymous evidence several times, each time conducting a detailed examination of the relevant issues and bearing in mind the need to ensure a fair trial.

Third, the judge had emphasised the need for independent evidence implicating the applicants in the shootings. Fourth, the jury had been warned by the judge to approach Mark Brown's evidence with caution and the judge had given them specific instructions about the limitations on the defence and the need for supporting evidence. Fifth, there had been substantial disclosure about Mark Brown which had provided extensive material for cross-examination. Finally, effective cross-examination of Mark Brown had in fact taken place. The Court concluded that the applicants had been able to challenge effectively the reliability of Mark Brown's evidence.

The Court was accordingly satisfied that the jury had been able to conduct a fair and proper assessment of the reliability of Mark Brown's evidence in the applicants' trial. It therefore dismissed the applicants' complaints and declared the case inadmissible.

Jeremy Bamber Murder Appeal bid Thrown Out by CCRC

[I am very shocked and extremely disappointed that today the Commission gave us another "No Decision" with regard to referring my case back to the Court of Appeal. It is illogical that the fresh evidence presented to them regarding the sound moderator has not persuaded the Commissioners that this material "may have" affected the jury's decision had they been presented with it at trial. No doubt my lawyers will ask the eminent forensic scientists (who have worked to produce evidence to accompany the submissions) to give additional information to the CCRC in order to persuade them that this case should be referred to the Court of Appeal. Until then I shall continue to campaign to prove my innocence in every way I can.

Thanks to Simon Mckay and his team for their efforts. Thank you to everyone who has supported me and I would like to acknowledge the efforts of Sarah, Mark and Lorna for their contribution in building an electronic case file and working with both Simon Mckay and the media on my behalf. Jeremy Bamber 26/04/12]

Convicted killer's lawyers to seek judicial review of decision not to refer Bamber's case back to court of appeal Eric Allison, guardian.co.uk, Thursday 26th April 2012

Lawyers representing convicted killer Jeremy Bamber, say they will seek a judicial review of the decision by the Criminal Cases Review Commission (CCRC) not to refer his case back to the court of appeal. They say the commission have not applied the proper test for determining whether a case should be referred to the appeal court.

The CCRC announced its decision on Thursday 26th April 2012 not to refer Bamber's case back to the court of appeal. The decision came after the commission had studied new submissions made by Bamber's lawyers, who had argued that evidence of a silencer attached to the murder weapon, which formed the main plank of the prosecution's case, was no longer sustainable.

Bamber was convicted in October 1986 of shooting dead his adoptive parents, Neville

and June Bamber, his sister, Sheila Caffell, and her two six-year old twins, Daniel and Nicholas, at White House Farm in rural Essex. The prosecution claimed Bamber had killed his family in order to obtain his inheritance. The trial judge described him as "wicked beyond belief" and jailed him for a minimum of 25 years. That sentence was increased to whole life in 1994 by the home secretary, Michael Howard. He has always maintained his innocence.

When police entered the farmhouse on 7 August 1985 and found the five bodies, they believed Caffell, who had a history of psychiatric problems, had killed her family before turning the rifle, an Anschutz 525, on herself. That theory was altered when relatives of Bamber found asilencer in a gun cupboard that apparently contained traces of Caffell's blood. The prosecution argued at Chelmsford crown court that Caffell could not have shot herself and removed the silencer and that her reach would not have been long enough to shoot herself in the throat with the silencer attached. Red paint marks, also found on the silencer, were said to have come from the farmhouse kitchen, where Neville Bamber's body was found: evidence, the prosection said, of a struggle with Bamber and his adoptive father. The silencer was pivotal in convicting Bamber, with the judge telling the jury they could convict him "on the evidence of the silencer alone".

New evidence obtained by Bamber's lawyers seem to rule out the possibility of the silencer being attached to the rifle during the killings. Three reports, by eminent experts, suggest the shots were fired without the silencer attached. One, compiled by David Fowler, the chief medical examiner of the US state of Maryland, has examined photographs of the victim's wounds and concluded they were caused by the rifle without the silencer attached. Fowler, who has reviewed 3,000 shooting murders, says the wounds are consistent with "the rifle not having a silencer-attached". His conclusions are corroborated by two other American experts and a leading British forensic scientist. There have also been question marks over a witness in the case.

Simon McKay, Bamber's lawyer, said his client was very disappointed but remained determined to carry on the fight to clear his name. McKay believes the commission 'have not applied the proper test for determining whether a case should be referred back to the court of appeal.' "Four independent and supremely qualified experts provided opinions that fundamentally undermined the Crown case against Mr Bamber and the safety of the convictions. The evidence was credible, inherently believable and gave rise to cogent admissible grounds of appeal that may have affected the jury's verdict. This is sufficient for the case to be referred back: whether the conviction is in fact subsequently quashed is a matter for the court of appeal. The commission has usurped the court's function."

A spokesman for the CCRC said the commission had not identified any new evidence or legal argument capable of raising a real possibility that the court of appeal would quash the conviction. "The commission's reasons for the decision are set out in detail in a 109-page statement of reasons. That document has was provided to Mr Bamber in prison today and a copy has been sent to his legal representative," he said.

Citizens the right to information in criminal proceedings to become law

"You have the right to . . . . a Letter of Rights". Soon this will be the reality for anyone who is arrested or detained anywhere in the European Union. EU Justice Ministers today adopted a new law that the European Commission had proposed to ensure defendants' right to information during criminal proceedings. Under the 'Directive on the right to information in criminal proceedings', suspects of a criminal offence will be informed of their rights in a language they understand. The measure will ensure that EU countries will give anyone arrested – or sub-

vested interests and the fact that we have an unpopular government terrified of criticism, it is unlikely that any real reform of the IPP regime will happen any time soon.

There is insufficient money, insufficient will for change in the government and in those who rely on the system for their living, too much political opposition and too little resistance to the numerous charities and individual “experts” that rely on public fear for their very existence. With all that in place, TheOpinionSite.org believes that anyone expecting real changes to the IPP system any time soon should not hold their breath.

Police woman faked report on ‘sex crime’

A Met police officer at a sex crimes investigation unit has been sacked after she falsified a crime report and fabricated the testimony of a victim. The unnamed 31-year-old officer was based at Southwark’s Sapphire unit in 2008 when she investigated an indecent assault allegation. A watchdog found that she had claimed the woman’s employers had carried out an internal inquiry when she had not established that it was true and she wrote a report falsely claiming the victim did not want to proceed with the case.

The Independent Police Complaints Commission found her guilty of gross misconduct and she was dismissed without notice on Tuesday. There have been a string of claims that officers at the Southwark unit breached rules on rape cases, including writing off allegations as “no crime” incidents. Scotland Yard has reorganised the Sapphire sex crime units.

IPCC Commissioner Rachel Cerfontyne said: “It takes courage for victims to report a sexual assault to the police and it is essential that when they do, they are treated with respect, supported and have their allegations thoroughly investigated… This was a deliberate neglect of duty and the officer has rightly been found guilty of gross misconduct and dismissed from the force.” Justin Davenport, London Evening Standard, 26 April 2012

Police Paid £6 Million To Stay Home Sunday Express Sunday April 29/04/12

Police officers suspended on full pay last year cost their forces around £6 million, writes Matthew Davis. At the start of this year 174 officers were off work on full pay. Of these 34 spent all of 2011 being paid while not being allowed to work. An officer in Northern Ireland has been suspended on full pay since October 2004. Suspended officers include Cleveland’s £192,000-per-year Chief Constable Sean Price and his deputy Derek Bonnard. Leicestershire’s Assistant Chief Constable Gordon Fraser picked up his six-figure salary for the whole of last year while at the centre of a fraud investigation. Deputy Chief Constable John Feavyour, of the Association of Chief Police Officers, said: “Where a police officer is being investigated for alleged misconduct it may be appropriate during the course of the inquiry to remove them from their duties.”

MPs savage ‘arrogant’ police body Yorkshire Post, Wednesday 25 April 2012

MPs have pledged to “relentlessly pursue” Britain’s most senior policing body and accused its leadership of “arrogance” and “unaccountability” after revelations it has been paying ex-police chiefs up to £1,100 a day as consultants.

The growing scandal over the huge payments made by the Association of Chief Police Officers (ACPO) to former chief constables reached Parliament yesterday as backbench MPs vented their fury at an organisation described as “riddled with conflicts of interest and poor governance”

The Yorkshire Post was singled out for praise in the Westminster Hall debate following an investigation which revealed more than £800,000 was paid to 10 consultants, largely over

victed of sexual or violent offences. That is a total of approximately 2,400 beds. Most of those places are filled by long term, non-IPP prisoners convicted of sexual or violent offences.

Even HM Prison Service is making life difficult by refusing permission for IPP prisoners to be transferred to minimum security D Category prisons, something which is almost essential if the prisoner is ever to be released back into the community. Such establishments are afraid of the adverse publicity that would result from an IPP prisoner being allowed to abscond.

Alleged “paedophiles” – for the sake of clarity, that means anyone of any age convicted of any sexual offence involving, affecting or even influencing any person under 16 (or in some cases 18) years of age – will find release almost impossible if they have been given an IPP by a judge, fairly or otherwise.

One must remember that judges have very little or even no discretion when handing down an IPP sentence, the criteria for such a sentence having been laid down by Blair and David Blunkett in such a way as to remove judicial discretion and then passed by Blair’s Parliament for purely political reasons and in order to appease the tabloids and their individual campaigners, the numerous child and women’s protection charities and similar lobby groups.

The question then is: ‘When will the IPP reforms actually happen?’

The answer, at least in the view of TheOpinionSite.org is: “Not any time soon.”

Even if the government had the will to bring in the reforms speedily (which it doesn’t), they would at present be almost impossible to implement. The reasons are numerous but here are just a few that stand out above the rest:

There are insufficient places available on the programmes and courses that an IPP prisoner must successfully complete before standing any real chance of release

There are insufficient places at D Category establishments to allow an IPP prisoner to progress towards release, principally because of fear of public criticism should such a prisoner abscond

There are insufficient places in “approved premises” (probation hostels) for the number of released IPP prisoners who would require them

It would be political suicide for the government to release large numbers of prisoners who have often wrongly been designated as “dangerous”

Public ignorance of reoffending rates has been manipulated by successive governments, police and probation staff, resulting in a misinformed public belief that all sex offenders reoffend – despite the fact that sex offenders actually have one of the very lowest rates of reoffending

The government is afraid of a revolt from the tabloids, its own right wing MPs, the child protection and women’s protection lobby and those who wield power in the probation service and the police

The current system keeps thousands of people employed

It must also be remembered that, even if an IPP prisoner is eventually released, he will still be subject to a minimum 10 year licence period, during which time he can be returned to prison by the probation service for any reason, even if he does not commit any further offences.

Anyone knowledgeable about the criminal justice system in Britain will tell you that the chances of a prisoner getting through a 10 year licence without being returned to prison at least once are virtually nil. TheOpinionSite.org believes therefore that it is not only the release criteria for IPP prisoners that need revision but also the licence provisions as well; something that is very unlikely to happen under any government of whatever party.

With the already high level of general public dissatisfaction, opposition from those with

ject to a European Arrest Warrant – a Letter of Rights listing their basic rights during criminal proceedings. Once it will have entered into force (two years after it is published in the EU's Official Journal – which is expected to take place within weeks), the new law will apply to an estimated 8 million criminal proceedings every year in all EU 27 Member States. Currently this right only exists in about one third of Member States.

"The right to a fair trial is one of the central pillars of our justice systems in Europe," said Vice-President Viviane Reding, the EU's Justice Commissioner.

"This new EU law will help to safeguard this right by ensuring everyone is clearly and promptly informed of their rights. Today is a milestone in our common efforts to ensure Europeans have access to justice, wherever they are in the EU. I want to thank the European Parliament and the EU Justice Ministers for their support of the Commission proposal. It sets a good precedent for a Europe of rights and justice that it was possible to make this fair trial right a reality for Europe's 500 million citizens so swiftly."

Background: The European Commission proposed the new law in July 2010 (IP/10/989) as part of a series of fair trial rights to be applied throughout the EU. It is the second measure, initiated by EU Justice Commissioner Reding, designed to set common EU minimum standards in criminal cases. This will boost confidence in the EU’s area of justice. The European Parliament and Council approved the first proposal, which gave suspects the right to translation and interpretation, (IP/10/1305) in October 2010.

The Directive will ensure that police and prosecutors provide suspects with information about their rights. Following an arrest, authorities will give this information in writing – in a Letter of Rights – drafted in simple, everyday language.

It will be provided to suspects upon arrest in all cases, whether they ask for it or not, and it will be translated if needed. EU countries are free to choose the exact wording of the Letter, the Commission proposed a model in 22 EU languages (see Annex). This will provide consistency for people crossing borders and limit translation costs.The Letter of Rights will contain practical details about the rights of persons arrested or detained, such as the right:

to remain silent; to a lawyer; to be informed of the charge;

to interpretation and translation in any language for those who do not understand the language of the proceedings; to be brought promptly before a court following arrest;

to inform someone else about the arrest or detention.

The Letter of Rights will help to avoid miscarriages of justice and reduce the number of appeals.

At the moment, the chances that citizens will be properly informed of their rights if they are arrested and face criminal charges vary across the EU. In some Member States, suspects only receive oral information about their procedural rights, and in others the written information is not given unless requested.

Under Article 82(2) of the Treaty on the Functioning of the European Union, and with a view to facilitating the mutual recognition of judicial decisions and improving police and judicial cooperation on criminal matters, the EU can adopt measures to strengthen the rights of EU citizens, based on the EU Charter of Fundamental Rights.

The right to a fair trial and the right to a defence are set out in Articles 47 and 48 of the EU Charter of Fundamental Rights; as well as in Article 6 of the European Convention on Human Rights.

In June 2011, the Commission put forward a third measure to guarantee access to a lawyer and to communicate with relatives (IP/11/689). The proposal is currently under discussion in the European Parliament and in the Council.

Is the Parole Board deciding on the continued detention of life sentence prisoners before their hearings?

Periodically reviewing life sentences by the Parole Board is a process required by law and such reviews, known as Tribunals, are intended to assess the current level of risk presented by life-sentence prisoners at the expiry of Tariff point of their sentence; Tariffs are the minimum length of time trial judges specify a lifer should spend in prison to satisfy the interests of retribution and punishment. Once the tariff point has been reached or exceeded by the lifer then the Parole Board has a legal duty to review and make an informed decision on the lifer's continued imprisonment.

The review process itself, known as an 'Oral Hearing', at which the lifer is present, is conducted like a semi-judicial hearing where reports by social workers, prison staff and psychologists are considered and assessed, and the lifer is given the opportunity to present their own case for release. It is from these hearings, or Tribunals, that the critically important decisions are made about the lifer's future, especially the one regarding whether to release or not. It would be absolutely wrong, as well as unlawful, if a decision regarding release was made before the 'Oral Hearing' had taken place and the paper work regarding that decision was written up to convey the impression that the decision had been made following such a hearing. In the case of a lifer called Malcolm Legget there exists indisputable evidence that such an unlawful practice took place and its discovery was purely by accident and incompetence on the part of the Parole Board.

On the 6 February 2012 a parole hearing took place at Shotts prison in Scotland to consider the case for release of Malcolm Legget who has been in jail since 1986. During the hearing Mr Legget asked that a prison-based psychologist, Sharron McAllister, be produced as a witness at the hearing to explain what Mr Legget claimed were significant inaccuracies in her report regarding him. The panel agreed to Mr Legget's request and the hearing was adjourned for a period of six months.

On the 21 February the Parole Board for Scotland wrote to Mr Legget saying the panel had made a definite decision regarding his continued imprisonment and had decided not to direct his release. It claimed the reason for its decision was that it still considered Mr Legget a risk to the community. Understandably, Mr Legget was concerned and confused by what appeared to be a final decision of the Parole Board when in fact his hearing had been adjourned and not yet concluded. Then on the 24 February Mr Legget received a second letter from the Parole Board informing him that the information in the previous letter had been what it called 'an error'. Mr Legget is convinced that in fact the letter from the Parole Board of the 21 February was a pre-prepared decision made before the hearing on the 6 February and the real 'error' was that it was delivered to Mr Legget before the definitive conclusion of his hearing.

If Mr Legget's suspicion is true, and the letter from the board on the 21 February suggest it is, then it indicates a serious and unlawful abuse of Parole Board procedure and power, and the rubber-stamping of the continued imprisonment of life sentence prisoners without proper procedure.

It also constitutes a clear breach of human rights under Article 5[4] which states that, "Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful". This clearly stipulates that a proper, legally-based hearing should take place to sanction the prisoner's detention, and in the case of the lifer the parole hearing is constituted to consider the continued detention, or not, of the life sentence prisoner who has reached or exceeded the time stipulated he should remain in jail. The so-called Oral Hearing is the forum where reports and evidence is considered by the panel,

view regrettably supported by very many police officers, probation staff and prison officials.

When asked by TheOpinionSite.org when the reforms would be introduced, a Ministry of Justice spokesperson said: "We intend to replace the widely criticised IPP system, which the public doesn't have confidence in, with a new regime of tough, determinate sentences. The new regime will restore clarity, coherence and common sense to sentencing."

When we asked what was being done to assist the progression of those existing IPP prisoners by the introduction of a new, mush fairer "release test", the spokesman said: "We have work underway to improve the progress of existing prisoners who are serving IPP sentences by making improvements to assessment, provision of rehabilitative work and parole review processes. We will continue to monitor the situation and look to make ongoing improvements."

It is fairly obvious from the MOJ statement above that anyone expecting change to come quickly is going to be extremely disappointed. The fact that the Legal Aid, Sentencing and Punishment of Offenders Bill is now on its way to Royal Assent and becoming Law is no indication whatsoever that IPP sentences will disappear any time soon or that those already serving them will be released.

The fact that a Bill becomes Law does not oblige the government to immediately enact it. Indeed, there are many Acts of Parliament that have been passed over the years, sections of which have still not been brought into force. A prime example is the provisions in the Prisoners Earnings Act 1996 (Revised 2011) that could allow prisoners to earn a proper wage for the work they do. They could then save for their release, support victims groups and relieve the burden on the taxpayer when released.

Whilst the government is keen to publicise the deductions from a prisoner's weekly 'wage' in order to support victims' organisations – that is, if the prisoner earns at least £20 pound a week (which most do not) – ministers are frightened of enacting the part of the Act that would enable prisoners to earn a 'real' wage for fear of a public backlash due to the current, extremely high rate of UK unemployment.

The reform of IPP sentences is being delayed for fear of similar public criticism, ministers being aware that any move to support prisoners will be rejected by a public that is woefully ignorant of how the criminal justice system works in the UK and still wrongly believes that prisons are places of luxury and some kind of "holiday camp"; in our view, a particularly ignorant view to take unless one has had years of experience of working in a prison, assessing prison standards or having been a long-term prisoner.

For IPP prisoners especially and their families, not knowing when – or even if – the prisoner will be released is not, in the view of TheOpinionSite.org at least, an experience that assists either the promotion of justice or fairness. Nor is it the behaviour expected from what is supposedly a "civilised" society.

There are also practical issues regarding the release of IPP prisoners that plague the government on a daily basis. Not the least the problems of insufficient hostel places, lack of move-on accommodation and an inbuilt tendency of police and probation staff to find an excuse to return the newly released IPP prisoner to jail as quickly as possible, thus making the lives of officials much easier than they would otherwise be. (If any of those officials would like to express a contrary view, they are welcomed to do so by commenting below or by expressing their view in TheOpinionSite.org Forum)

There are approximately 100 "approved premises" – probation hostels to the rest of us – in England and Wales, most of which will not take IPP prisoners who have often been con-

Disclosure in Criminal Proceedings House of Commons / 26 Apr 2012 : Column 47WS

The Lord Chancellor and Secretary of State for Justice (Mr Kenneth Clarke): I welcome Lord Justice Gross's review of "Disclosure in Criminal Proceedings" of September 2011, which the Government have considered in detail. I understand that the review took approximately a year to complete and that Lord Justice Gross consulted widely with policy experts and practitioners both in this country and abroad. His final report provides an authoritative insight into disclosure issues in cases involving large volumes of investigative material.

The report's findings underline the complexity and difficulty of the issues raised. I note and understand Lord Justice Gross's decision not to call for legislative intervention, and his advocacy of more effective application of the existing laws. I welcome his assistance in the work of rationalising and simplifying existing disclosure guidance, which has already commenced with the endorsement of the Law Officers.

The continuing policy objective in this important area is to safeguard fair trials by ensuring the legal framework requires appropriate disclosure to the accused.

At the same time, the resource burden which these arrangements impose on the criminal justice system cannot be ignored. The exponential growth in the volume of material generated by criminal investigations is a matter of increasing concern, particularly where computer, CCTV and internet material are concerned. In some cases, the amount of material generated is now so great that it is no longer humanly possible to review it by traditional means.

With these realities in mind, the coalition Government will work to establish if there are ways to mitigate the resource burden imposed by disclosure, but only in such a way that fair trials are preserved.

Proactive prosecution and judicial case management are both essential to sound disclosure practice, as are the appropriate sanctions for disclosure failures. I have therefore asked for a more detailed examination of the judiciary's existing case management powers and sanctions for disclosure failures, and consideration of whether there are options for strengthening them that have not so far been identified. I am grateful to Lord Justice Gross and Mr Justice Treacy for agreeing to lead this work, and will report back to Parliament in due course.

IPP sentences no closer to reform despite change in law

By Raymond Peytors - theopinionsite.org, April 29, 2012

The government has told TheOpinionSite.org that a timetable for the repeal of the Indeterminate Sentence for Public Protection (IPP) has still not been set, despite the fact that the Bill scrapping the much criticised measure has been passed by both Houses of Parliament; nor have measures yet been put in place to speed up the release of the 4,000 IPP prisoners who have already completed the 'relevant' – or "punishment" – part of their sentence.

The delay in setting the reform timetable reflects the huge opposition faced by David Cameron from his own right-wing back bench MPs, many of whom are strongly opposed to any moves that could be seen as a softening of UK penal policy.

The right wing of the Conservative party – including the beleaguered Home Secretary, Theresa May – are terrified that they will suffer criticism from the tabloid media, child protection groups and women's organisations should prisoners that have often been wrongly labelled as "dangerous" be returned to the community.

The government's problem is exacerbated by the fact that the majority of the public do not understand or even know about IPP sentences and are therefore easy prey for those groups who proclaim the doctrine that the system is always right and that IPP prisoners should never be released; a

which is usually composed of a judge or legally qualified person, and a psychologist and senior probation officer or criminologist. It is from the evidence presented at these hearings, conducted in the presence of the lifer, that the final decision to release or detain is made. The letter Malcolm Legget received from the Parole Board on the 21 February would suggest that a decision to continue detaining Mr Legget was made in private and before the Oral Hearing itself. Clearly, if this did happen then ether a unique and unlawful precedent was created, or the rubber-stamping in private of the continued detention of life sentence prisoners is an established practice and the Parole Board is operating on an unlawful basis.

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Securing redress for sex crime victims By Nogah Ofer, Solicitors Journal, 23 April 2012

Victims of sexual offences are still being let down by the justice system despite attempts at improving effectiveness. New laws on stalking and a recent report by HM Inspectorate of Constabulary and the Crown Prosecution Service (CPS) have highlighted the need for improvement in the investigation of rape cases, but concerns endure that victims of sexual violence, most of them women, are still failing to secure justice through the criminal justice system.

A widely quoted statistic is that six per cent of reported rapes result in a conviction. However, conviction rates for cases brought to court are in fact 58 per cent, higher than for some other serious offences. The six per cent figure represents the attrition rate and demonstrates that the overwhelming majority of rapes reported to the police do not reach the courts. Only a small proportion of reported cases are stranger rapes, and therefore in the majority of cases identification of the perpetrator is not an obstacle. Accordingly, a substantial proportion of reported rapes are brought to a conclusion by the decisions of the police and CPS.

Since a government initiative in 2002, there has been a concerted effort to improve both conviction rates and the experiences of rape victims within the criminal justice system which has seen the introduction of specialist police Sapphire Units, specially trained officers for rape complaints, victims' advisers, Sexual Assault Referral Centres, specialist rape prosecutors and a plethora of policies.

The Stern review, published in March 2010, is the latest independent review into how rape complaints are handled by public authorities. It found that while there is much good practice, the application of improved approaches is patchy with some victims still encountering old-fashioned attitudes and a service that falls short of the stated norms. This is a relatively new and developing area of law with significant untapped potential to assist victims.

Failure to investigate: There are several legal tools available for challenging failures in the criminal justice system on behalf of victims of sexual offences:

. . . . articles 3 and 8 of the European Convention on Human Rights (ECHR);

. . . . the Equality Act 2010; national policies

. . . . judicial review challenges to prosecution decisions.

A duty arises under the ECHR to conduct an effective investigation into credible allegations of ill-treatment perpetrated by members of the public which amount to inhuman and degrading treatment contrary to article 3. This applies to any report to the police of a serious sexual offence.

A number of cases have been decided by the European Court of Human Rights in which breaches of article 3, and sometimes article 8, have arisen from the police and prosecutors failing to conduct proper investigations or prosecutions. MC v Bulgaria (2004) concerned a rape and Opuz v Turkey (2009) was a case of domestic violence. Examples of the European court applying this principle to assaults not involving sexual violence are Vasilyev v

Russia (2010) and Beganovic v Croatia (2009).

The only UK authority on the police's duty to investigate allegations of crime perpetrated by members of the public is OOO and others v Commissioner of Police [2011] EWHC 1246, in which damages were awarded for a failure by the police to open investigations into allegations of human trafficking.

Therefore, following an allegation of rape, a breach of article 3 may arise if as a result of police failures the opportunity to obtain forensic or other vital evidence has been lost, the accused can no longer be identified or apprehended, or the opportunity to secure a conviction is lost following a botched prosecution.

Sex discrimination: Discrimination provisions cannot be used to challenge decisions not to prosecute, however this probably does not extend to police investigations.

A police decision reached on the grounds of false beliefs about female rape victims may amount to direct discrimination. For example, a report of rape dismissed on the basis that the victim had behaved sexually towards the perpetrator, had agreed to accompany him to the scene of the incident or had been drinking too heavily, may be challengeable on this basis.

Another response that may amount to direct discrimination would be a conclusion reached due to the presentation of a victim based upon preconceptions about how female rape victims are supposed to behave. An example would be dismissing a report of a rape which has taken place a matter of hours previously because the victim is composed and does not appear distressed.

Indirect discrimination is defined in the Equality Act 2010 as occurring where a provision, criterion or practice puts a person with a protected characteristic at a disadvantage. The overwhelming majority of victims of sexual offences are female; therefore, a practice of disbelieving rape victims could amount to indirect discrimination if such an attitude is not adopted with victims of non-sexual offences.

It is generally acknowledged that disbelief towards those who report rape and the view that many allegations of rape are false are widespread within society and reflected in the attitudes of some police officers. The Stern review recognises this and, for example, the Rape and Attempted Rape Policy of Essex Police warns officers that "it is vital that victims are believed in the early stages, particularly as one of the major criticisms of the police is 'they didn't believe me'".

Vulnerable victims: The Stern review found that a pervading theme throughout the evidence presented to its researchers was the vulnerability of many of those reporting rape. Many victims had mental health conditions or learning disabilities which made them vulnerable to having advantage taken of them.

Victims with mental health conditions are more likely to encounter reluctance to accept their accounts or even plain disbelief on the basis that the complainant is reporting delusions. Such an approach may constitute disability discrimination which is defined in section 15(1) of the Equality Act 2010 as occurring when A treats B unfavourably because of something arising in consequence of B's disability.

A broad range of national policies are of potential relevance to the investigation and prosecution of rape and sexual assault. Some key national policies (see box) and police forces will have local policies in addition. Policies provide a helpful context and yardstick by which to assess treatment received by a victim. Many have a victim-centred approach which is not always reflected in victims' experiences.

Challenging decisions not to prosecute: An inadequate investigation or prosecution of an allegation of rape or sexual assault cannot be the subject of a negligence claim due to the core immunity enjoyed by the police and CPS. However, a range of other causes of action may

be available as discussed above. The level of damages a victim of crime can expect to receive for failures in the criminal justice process is unclear. In R (B) v DPP [2009] EWHC 106 (Admin), the court awarded £8,000 for a breach of article 3 to compensate the claimant "for being deprived of the opportunity of the proceedings running their proper course and the damage to his self-respect from being made to feel that he was beyond the effective protection of the law".

When failures in the investigation or prosecution have caused or exacerbated psychiatric damage, awards may be higher.

Decisions on the bringing of criminal charges should be taken in accordance with the CPS Policy for Prosecuting Cases of Rape (March 2009). This policy goes some way to counter myths about rape. It spells out that there is no requirement for the victim to have physically resisted in order to prove a lack of consent. It recognises that complaints of rape are not always made immediately and that the effects of rape may render a victim emotionally incapable of providing a written statement shortly after an attack, or even for days or weeks.

In relation to the need for corroboration the policy is ambiguous; while not excluding the possibility of a prosecution in such circumstances it states that "there is the possibility that some cases may fail to meet the evidential stage of the Code for Crown Prosecutors".

Applying traditional public law principles, a decision not to prosecute may be challengeable on the basis that it contravenes a lawful policy (e.g. the Code for Crown Prosecutors or CPS Policy for Prosecuting Cases of Rape) or on the grounds of irrationality. As noted above, decisions not to prosecute cannot be challenged on grounds of discrimination.

Irrationality challenges will face a high hurdle given the broad discretion afforded by the courts to prosecutors, particularly specialist rape prosecutors, in their assessment of the view a jury is likely to take of the evidence. However, in R v DPP ex parte Manning (17 May 2000), while pointing out the court's deference to the prosecutor's expertise, the Lord Chief Justice also noted that "at the same time, the standard of review should not be set too high, since judicial review is the only means by which the citizen can seek redress against a decision not to prosecute and if the test were too exacting an effective remedy would be denied".

The advent of the Human Rights Act and anti-discrimination legislation have opened up a range of avenues for bringing challenges on behalf of victims of serious sexual assault. A number of progressive policies exist within the criminal justice system in relation to victims' rights. Legal challenges can be a valuable tool to bridge the gap between such policies and some victims' experiences on the ground.

31 officers present at the Murder of Mark Duggan refuse to be interviewed

The police watchdog for England and Wales is calling for new powers to make officers attend interviews if they witness a fatal shooting by colleagues. The demand comes as the Independent Police Complaints Commission revealed that it had not been able to interview any of the 31 officers present at the shooting of Mark Duggan last August.

The IPCC says it wants the power to demand witness evidence from police officers, as currently the watchdog can only demand officers to give an interview if they are suspected of committing a crime. If they are witnesses to a fatal shooting by police, officers only have to provide written statements to IPCC investigators - which the 31 officers who were present at Mark Duggan's shooting in Tottenham, north London, have done - but they cannot be forced to undergo questioning in person.

The Home Office declined to comment while IPCC investigations were ongoing.