the authors of Article 3 of the Convention sought to proscribe" (ibid.)

3. In the instant case, it has been clearly established that the statements had been obtained from the defendant in breach of Article 3. The Riga Regional Court said so in its judgment of 11 October 2004 (see § 33). This was confirmed by the executive branch of Government in its letter of 20 October 2011 to the Court admitting the breach of Articles 3 and 13 (see Cesnieks v. Latvia (dec.) (partial striking out), no. 9278/06, § 32, 6 March 2012). The Supreme Court was of a different persuasion. The pons asinorum appears to have been the distinction between the truthfulness of the applicant's statements (see § 40) and their admissibility or inadmissibility as evidence (see § 41). Now, it is true that at the time when the Supreme Court pronounced itself (for the first time) on 26 April 2005, there was as yet in force no provision to the effect that evidence obtained through ill-treatment would be inadmissible (§ 49). However the 2005 Criminal Procedure Law had been adopted on 21 April 2005,even though it was to come into force only on 1 October 2005. The Supreme Court (like the Senate of that court which later dismissed a further appeal on formalistic grounds, § 45) must have been aware of the provisions of the new section 130 of that law. Nevertheless it forged ahead with its decision of 26 April 2005, in effect riding roughshod over the applicant's fundamental human rights. I find that extraordinary.

4. Even more extraordinary, however, is the fact that with all the above as a backdrop to this case, and with the applicant serving a sentence of eleven years' imprisonment plus confiscation of property (§ 42), the respondent Government saw fit to contest the Article 6 violation as regards the use of evidence. Inconsistency of behaviour verging on the pathological is clearly not the prerogative of physical persons.

Exempting Police Officer From Criminal Liability Unlawful - Violation Of Article 3

The Court finds against the Romanian authorities for exempting a police officer from all criminal liability without effective judicial investigation In Chamber judgment in the case of Gramada v. Romania(application no. 14974/09)' which is not final'. the European Court of Human Rights held, unanimously, that there had been: A violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights. The case concerned the shooting of Mr Gramada by a police officer during the arrest of a man who was on the run and took refuge in Mr Grarnada's home. The Court noted that the police officer concerned had not hesitated to use his firearm against the applicant and thus appeared to have acted in a wholly unconsidered manner, which would probably not have been the case had he had the benefit of proper instructions. Furthermore, in view of the glaring omissions in the investigation, the authorities could not be said to have genuinely sought to ascertain whether the use of force by the police officer had been excessive. Accordingly, the decision of the Romanian courts to exempt the police officer from all criminal responsibility appeared to reflect the

Hostages: Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, 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, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, 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, Carl Kenute Gowe, Eddie Hampton, Tony Hyland,

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MOJUK: Newsletter 'Inside Out' No 464 (13/02/2014)

Prisoner's Rights Not Breached By Segregation *Rosalind English, UK Human Rights Blog,*

Shahid v Scottish Ministers – Solitary confinement of a dangerous prisoner in accordance with the prison rules was neither unlawful nor in breach of his Convention rights, the Scottish Court of Session has ruled. The petitioner (as we shall call him to avoid confusion, rather than the more accurate "reclaimer") was serving a life sentence for what the court described as a "brutal and sadistic" racially motivated murder of a 15 year old white boy in 2006. Apart from a short period during his trial he remained continuously segregated until 13 August 2010, when he was allowed once again to associate with other prisoners ("mainstream"). He claimed that his segregation was contrary to the Prisons and Young Offenders Institutions (Scotland) Rules 2006 and, separately, contrary to Article 3 of the European Convention on Human Rights, which provides protection against torture and cruel and unusual punishments, and Article 8, which protects the right to private life. He sought declarations to that effect and £6,000 by way of damages.

Background facts: Throughout his detention, the prison authorities had been in receipt of intelligence to the effect that other prisoners intended to assault the petitioner and his co-accused, they being regarded as "beasts". There was a "real concern" that other prisoners would carry out a revenge racial attack on the petitioner. Similarly, the petitioner had stated to the authorities that he would seriously assault any prisoner who he saw as a threat if he was to return to the mainstream environment and understood the requirement for him to be located separately and safely. Indeed several threats to his safety had been made and a prison magazine carried an article stating that there was a "contract" on the petitioner for £5,000 for a prisoner to slash or scald him.Equally it was noted that on a number of occasions when the petitioner was being escorted from the unit for visits, etc, he would attempt to intimidate other prisoners. Attempts were made to reintegrate the petitioner, but they did not go well. In early October 2010 there was a return to segregation for one month after the petitioner was involved in an orchestrated fight with other prisoners from one hall against prisoners from another hall. Thereafter he was moved to the mainstream prison population.

In the hearing below the Lord Ordinary had considered the challenge under Article three and considered whether the petitioner had been treated in an "inhuman or degrading manner". He found that, given the nature of the petitioner's crime, there was nothing inherently surprising in the problems that faced the prison authorities. Furthermore, the authorities required to have regard to the petitioner's rights and their obligations under article 2 of the convention, which protects the right to life. In deciding whether what happened was inhuman or degrading, the Lord Ordinary considered it highly relevant that the petitioner's segregation was designed to protect him from serious injury or worse. The European case law demonstrated that prison authorities were under an obligation to safeguard the health of persons in custody.

Throughout his sentence, the goal of the prison authorities had been to return the petitioner to mainstream. In those circumstances the Lord Ordinary refused to conclude from the fact that reintegration was achieved in 2010 that there had been no good or sufficient reason for the measures taken previously, nor that by then they have become arbitrary and disproportionate. The Court of Session agreed with both the decision of the Lord Ordinary and his reasons. The three judge panel set out in their own words why they considered that the petitioner's claims were entirely ill-founded.

Reasoning behind the decision - Prison rules: lawfulness

The legality of the segregation had to be considered in the context in which the rules governing it operate. That context is that in Scottish prisons, association with other prisoners is a privilege, not a right, because the privilege of association may be withdrawn at any time. It was clear that there was very general ill feeling against the petitioner on account of the brutal nature of the murder of which he had been convicted. In these circumstances it was plainly not practicable to segregate the prisoners making the threats. Instead, for the petitioner's own protection, it was decided that he should be segregated. The threats to the petitioner were serious, and the information about them was based on reliable intelligence. The prison authorities have an obligation to ensure the safety of prisoners, and in the circumstances segregation of the petitioner was considered to be the only reliable means of securing his safety. All the relevant case law supported the proposition that mere failure to observe the time limits specified in rule 94(5) and (6) of the Prison Rules would not invalidate the continuing segregation.

2. Article 3 of the European Convention on Human Rights

The Court viewed this claim as manifestly unfounded. In the Strasbourg case of Ramírez Sánchez v France (2007) 45 EHRR 49 much harsher conditions were held to be a justified infringement of the applicant's Article 3 rights. The European Court of Human Rights considered that "the prohibition of contacts with other prisoners for security, disciplinary or protective reasons does not in itself amount to inhuman treatment or punishment" (paragraph 123). In another case that Court concluded that solitary confinement had not been justified, because the reasons for the segregation had been unclear and had never been explained to the applicant prisoner (Onoufriou v Cyprus, [2010] ECHR 24407/04). That was "quite distinct" from the present case, where reasons had been provided throughout the period of segregation and where it was clear that there was reliable intelligence to support the need for segregation. In Razvyazkin v Russia, [2012] ECHR 13579/09, the Strasbourg Court stressed that, for article 3 to come into play, the suffering and humiliation involved must… go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment. [para 90]

For solitary confinement to be permissible in terms of article 3, a number of other conditions must be satisfied, but the Court of Session judges were of opinion that all of these had been met in the present case; first, because there was a pressing purpose for the segregation, secondly because there were proper procedural safeguards in place, and third because adequate reasons had been given – to protect the petitioner from violence threatened by the other prisoners. There was also a clear risk that he would become involved in fights with other prisoners, threatening good order within the prison. Those matters did not change. In those circumstances there was no reason why the reasons given should change. [para 44]

Article 8 of the European Convention on Human Rights

Anther "wholly unfounded" contention. The measures taken to protect the petitioner in this case had been wholly proportionate. It was equally important and legitimate to maintain order within the prison walls: The reclaimer was initially segregated because of an attack that he and others had made on another prisoner. He subsequently made threats against other prisoners, and it seems clear that he was willing to run the risk of attack because he thought that he could acquit himself well in a fight. In these circumstances we consider that the reclaimer's own wishes count for relatively little; it was important that the prison authorities should maintain order within the prison. [para 48] For these reasons the Court rejected the appeal (or "refused the reclaiming motion").

of the evidence under the domestic law of the States Parties to the Convention, or to rule on an applicant's guilt in the manner of a fourth-instance court. While Article 6 guaranteed the right to a fair trial, it did not lay down any rules on the admissibility of evidence as such, which was primarily a matter for regulation under the national law of the The Court held that Italy was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,000 in respect of costs and expenses. Separate opinion: Judge Karakas expressed a dissenting opinion which is annexed to the judgement. The judgment is available only in French.

Cesnieks v. Latvia - Conviction on Self-Incrimination Unlawful

The applicant, Valters Cesnieks (Application no. 9278/06) , is a Latvian national who was born in 1975 and is currently serving his sentence in Matisa Prison. The case concerned his conviction of murder on the basis of self incriminating statements allegedly made under duress. In March 2002 Mr Cesnieks was asked to come to a police station, where police officers accused him of a murder and used physical force against him, as a result of which he made a written confession to having committed the murder in question.

Together with three other people he was charged with murder. In a first-instance judgment of October 2004 he was acquitted, the court holding that his statements of March 2002 had been made under duress and could not be used to convict him. However, in April 2005 the Supreme Court overturned that judgment and found him guilty in a judgment eventually upheld in August 2005. He was sentenced to 11 years' imprisonment. Relying on Article 6 § 1 (right to a fair trial), Mr Cesnieks complained in particular that his conviction had been unfair as evidence obtained in violation of Article 3 (prohibition of inhuman or degrading treatment) had been used at his trial. - Violation of Article 6 § 1 Just satisfaction: EUR 6,000 (non-pecuniary damage) and EUR 5,000 (costs and expenses)

Separate Concurring Opinion Of Judge De Gaetano

1. While I agree with the five heads of the operative part of the judgment, I regret that the reasons advanced, and the muted language used, in 62-69 do not do justice to the gravity of the violation in this case.

2. In this case there is not simply a violation of Article 6 § 1, but a "flagrant denial of justice" in the sense described in 259 of the judgment of 17 January 2012 in the case Othman (Abu Oatada) v. the United Kingdom (no. 8139/09). Like Article 2, Article 3 lies at the very core of the Convention - indeed, in some sense it can be considered as even more "fundamental" than Article 2 since, unlike Article 2, it admits of no exceptions or qualifications. Even in time of emergency, no derogation can be made to Article 3 (see Article 15 § 2). As was emphasised in El Haski v. Belgium (no. 649108), the use in criminal proceedings of statements obtained as a result of a violation of Article 3, irrespective of the classification of the treatment as torture, inhuman or degrading treatment, renders the proceedings as a whole automatically unfair and in breach of Article 6 (and this applies also for the use of real evidence obtained as a direct result of acts of torture - if the real evidence is obtained as a result of acts which are in breach of Article 3 but which fall short of torture, there would be a breach of Article 6 only if that real evidence had a bearing on the outcome of the proceedings against the defendant) (see § 85 of El Haskl). The necessity for this stringent automaticity was explained in Othman (Abu Oatada) at § 264. It is true that in that case Article 3 was being considered specifically in the context of torture, and of statements extracted under torture, but to my mind the same reasoning applies if statements are extracted under duress amounting to inhuman or degrading treatment. Admitting statements - whether made by the accused or by third parties - obtained in these circumstances "would only serve to legitimate indirectly the sort of morally reprehensible conduct which

assassination carried out on the territory of the UK on the orders of the Russian government".

Continued Detention Incompatible With Prisoner's State of Health

In Chamber judgment in the case of Contrada (No.2) v. Italy (application no. 7509/08)' which is not final'. the European Court of Human Rights held, by a majority, that there had been: A violation of Article 3 (prohibition inhuman or degrading treatment) of the European Convention on Human Rights. The case concerned the authorities' repeated refusal of a prisoner's requests for a stay of execution of his sentence or for the sentence to be converted to house arrest on account of his numerous health problems. In the light of the medical certificates that had been available to the authorities and the length of time that elapsed before Mr Contrada was placed under house arrest, the Court held that his continued detention had been incompatible with the prohibition of inhuman and degrading treatment under the Convention.

Principal facts: The applicant, Bruno Contrada, is an Italian national who was born in 1931 and lives in Palermo (Italy). On 5 April 1996 Mr Contrada was sentenced by the Palermo District Court to ten years' imprisonment for aiding and abetting a Mafia-type organisation. Between 1979 and 1988, in his capacity first as a police official and later as head of the private office of the High Commissioner for anti-Mafia activities and deputy director of the civilian secret services, he had allegedly contributed to the activities of the criminal organisation Cosa Nostra. The court based its judgment on a large number of witness statements, and in particular on the information supplied by several former members of the criminal organisation who had decided to cooperate with the authorities.

On 11 May 2007 Mr Contrada was placed in detention in Santa Maria Capua Vetere military prison. He wrote to the judge responsible for the execution of sentences informing the latter of the many medical conditions from which he suffered. The prison doctor confirmed that Mr Contrada had a number of health problems. On 24 October 2007 Mr Contrada applied to the judge for the first time requesting his release or a stay of execution of his sentence. He lodged seven further requests, all of which, like the first one, were rejected.

On 24 July 2008 the court responsible for the execution of sentences placed the applicant under house arrest for six months at the home of his sister. The applicant was forbidden any contact with persons other than family members and medical personnel. The court refused Mr Contrada's application for a stay of execution of his sentence, basing its decision on the danger which the applicant posed to society, the type of offence of which he had been convicted and the length of the sentence remaining to be served.

Decision of the Court Article 3: The Court noted that it was beyond doubt that Mr Contrada had suffered from a number of serious and complex medical disorders. It observed that during the proceedings ten medical reports or certificates had been submitted to the competent authorities. All the documents had consistently and unequivocally found that Mr Contrada's state of health was incompatible with the prison regime to which he was subjected. The Court noted that the applicant's request to be placed under house arrest had not been granted until 2008, that is to say, until nine months after his first request. In the light of the medical certificates that had been available to the authorities, the time that elapsed before the applicant was placed under house arrest and the reasons given for the decisions refusing his requests, the Court found that Mr Contrada's continued detention had been incompatible with the prohibition of inhuman or degrading treatment under Article 3 of the Convention.

Article 6 § 1: The Court reiterated that it was not its task either to assess the lawfulness

John Heibner - 40 Year Fight Against Murder Conviction Goes On

Duncan Campbell, theguardian.com, Friday 7 February 2014

John Heibner, who was convicted of a murder nearly 40 years ago, has lost his long battle to prove his innocence. The appeal against his conviction for murdering Beatrice Gold has been turned down, bringing to an end, at least for the time being, a high-profile case seen by some as one of Britain's longest-running miscarriages of justice.

Beatrice "Biddy" Gold was shot dead in the basement office of the clothing business she ran with her husband in Clerkenwell, London, in 1975. The following year, Errol "John" Heibner, a 30-year-old South African-born armed robber, was convicted of her murder and jailed for life. He served 25 years in prison, always protesting his innocence. On his release he campaigned to have his case reopened. Gold had been at the office with her husband, Eric, and their colleague, Sheila Brown. At the end of the day Eric Gold and Brown went shopping. When they returned to the office Beatrice Gold was dead, shot three times with a .32 revolver. Heibner was known to police as a criminal operating in the area, and was facing a 15-year sentence for an armed robbery which he had admitted.

He signed a confession because, he later said, he understood that his girlfriend, who had also been questioned, would be released without charge if he did so. The case against him rested on this confession, which he retracted at the trial. His first appeal against conviction was heard in 1978 and was dismissed, but Lord Justice Shaw suggested the home secretary should investigate the circumstances of the case. Heibner was supported by prominent figures. The Rev Nick Stacey, former director of social services for Kent, met him in Maidstone prison, became convinced of his innocence and wrote to two successive home secretaries on his behalf. Lord Ramsbotham, former chief inspector of prisons, also pressed his case.

Initially, the CCRC decided there were insufficient grounds to refer his case back, but reconsidered and the case went to the court of appeal last December. In a judgment given last month, appeal court judges Lady Justice Rafferty, Mr Justice Irwin and Mr Justice Jeremy Baker, dismissed the appeal. "Heibner now relies on speculative theories which give rise to a danger of usurping the trial process," they concluded. "We have applied tests advantageous to Heibner so as to extend to him the greatest available protection as he prosecutes his appeal. We see nothing to make us doubt the safety of this conviction and this appeal is dismissed." Heibner remains determined to continue with the case.

Prisoners: Suicide and Self-harm

Lord Beecham to ask Her Majesty's Government what steps they intend to take to reduce the incidence of suicide and self-harm among male prisoners. [HL4774]

Minister of State, Ministry of Justice Lord Faulks: The Government is committed to reducing the incidence of self-harm and self-inflicted deaths in prisons and every effort is made to learn from them to help prevent further deaths. All prisons are required to have procedures in place to identify, manage and support people who are at risk of harm to themselves. The Assessment, Care in Custody and Teamwork (ACCT) process provides a prisoner-centred, flexible care planning system for those identified as at risk of suicide or self-harm. National Offender Management Service collates and disseminates learning from deaths and Prisons are also required to ensure that they have procedures in place to apply learning locally to prevent future deaths. The ACCT system is designed to ensure that all prisoners are managed in a way that is responsive to individual needs and risks, including those related to gender.

US: For-Profit Probation Tramples Rights of Poor

(Human Rights Watch, New York February 4, 2014) – Every year, US courts sentence several hundred thousand misdemeanor offenders to probation overseen by private companies that charge their fees directly to the probationers. Often, the poorest people wind up paying the most in fees over time, in what amounts to a discriminatory penalty. And when they can't pay, companies can and do secure their arrest. The 72-page report, "Profiting from Probation: America's 'Offender-Funded' Probation Industry," describes how more than 1,000 courts in several US states delegate tremendous coercive power to companies that are often subject to little meaningful oversight or regulation. In many cases, the only reason people are put on probation is because they need time to pay off fines and court costs linked to minor crimes. In some of these cases, probation companies act more like abusive debt collectors than probation officers, charging the debtors for their services.

"Many of the people supervised by these companies wouldn't be on probation to begin with if they had more money," said Chris Albin-Lackey, senior researcher on business and human rights at Human Rights Watch. "Often, the poorer people are, the more they ultimately pay in company fees and the more likely it is that they will wind up behind bars." Companies refuse to disclose how much money they collect in fees from offenders under their supervision. Remarkably, the courts that hire them generally do not demand this information either. Human Rights Watch estimates that, in Georgia alone, the industry collects a minimum of US$40 million in fees every year from probationers. In other states, disclosure requirements are so minimal that is not possible even to hazard a guess how much probation companies are harvesting from probationers in fees. - In Augusta, Georgia, a man who pled guilty to shoplifting a US$2 can of beer and fined US$200 was ultimately jailed for failing to pay more than US$1,000 in fees to his probation company. At the time he was destitute, selling his own blood plasma twice a week to raise money. - In another Georgia town, a company probation officer said she routinely has offenders arrested for non-payment and then bargains with their families for money in exchange for the person's release. - In Alabama, the town of Harpersville shut down its entire municipal court after a judge slammed the municipality and its probation company for running what he called a "judicially sanctioned extortion racket." - The Mississippi Delta town of Greenwood, an impoverished community of 15,000, had more than 1,200 people on probation with the private firm Judicial Corrections Services as of August 2013. Many were guilty only of traffic offenses. The town's municipal judge told Human Rights Watch that "maybe one or two" of those had warrants out for their arrest. The real figure was close to 300. These cases are not mere aberrations. Not all company probation officers behave unethically, but they are all subject to perverse financial incentives that encourage abusive behavior. And courts that view probation companies as an easy way to boost collections have troubling incentives not to ask hard questions about the tactics those companies employ.

Probation companies operate on an "offender-funded" basis that is financially appealing to many courts and local governments. They offer to provide probation supervision for low-level, misdemeanor offenders at no cost to the taxpayer. Instead, their contracts stipulate that judges should order probationers to pay them various fees as a condition of their sentence of probation. Many companies' profits are entirely dependent on their ability to collect these fees from probationers.

In Bearden v. Georgia, the US Supreme Court has ruled that a person on probation cannot be jailed simply because they cannot afford to pay a criminal fine. But many courts effectively delegate the responsibility of determining whether an offender can afford to pay fines and company fees to their probation companies. This presents a clear conflict of interest because company profits, along with the quarterly bonuses of some company probation officers, depend entirely on their ability

apply for judicial review and, if permission was granted, of the substantive claim for judicial review. At the outset of the hearing we granted permission. We then heard submissions on the substantive claim from Mr Ben Emmerson QC on behalf of the claimant and from Mr Neil Garnham QC on behalf of the Secretary of State. Counsel for the Coroner (Mr Robin Tam QC and, in reply, his junior Mr Andrew O'Connor) made brief submissions for the assistance of the court. Counsel for the Metropolitan Police Commissioner and for the Investigative Committee of the Russian Federation attended the hearing but played no active part save that Mr Richard Horwell QC read out a short formal statement of fact on behalf of the Commissioner.

Conclusion: Lord Justice Richards, I have upheld the claimant's challenge to the adequacy or correctness of the first, third and fourth of the reasons given by the Secretary of State for refusing the Coroner's request to set up a statutory inquiry. I have also indicated my concerns about the fifth and sixth reasons though they are of subsidiary importance for the claim. As to the second reason, the Secretary of State was wrong to proceed on the basis that Article 2 was not engaged but I have found that the procedural obligation under Article 2 does not require any investigation beyond that already carried out and that the error was therefore immaterial.

Taking everything together, I am satisfied that the reasons given by the Secretary of State do not provide a rational basis for the decision not to set up a statutory inquiry at this time but to adopt a "wait and see" approach. The deficiencies in the reasons are so substantial that the decision cannot stand. The appropriate relief is a quashing order.

The case for setting up an immediate statutory inquiry as requested by the Coroner is plainly a strong one. The existence of important factors in its favour is acknowledged, as I have said, in the Secretary of State's own decision letter. I would not go so far, however, as to accept Mr Emmerson's submission that the Secretary of State's refusal to set up an inquiry is so obviously contrary to the public interest as to be irrational, that is to say that the only course reasonably open to her is to accede to the Coroner's request. If she is to maintain her refusal she will need better reasons than those given in the decision letter, so as to provide a rational basis for her decision. But her discretion under section 1(1) of the 2005 Act is a very broad one and the question of an inquiry is, as Mr Garnham submitted, difficult and nuanced. I do not think that this court is in a position to say that the Secretary of State has no rational option but to set up a statutory inquiry now.

Accordingly, whilst it will be necessary for the Secretary of State to give fresh consideration to the exercise of her discretion under section 1(1) of the 2005 Act and in so doing to take into account the points made in this judgment, I would stress that the judgment does not of itself mandate any particular outcome. Lord Justice Treacy, I agree., Mr Justice Mitting, I also agree.

The widow of murdered former KGB spy Alexander Litvinenko has hailed a High Court victory that raises her hopes of obtaining a public inquiry into her husband's death as "unbelievable".Speaking outside court, Mrs Litvinenko said she she wants to get to the truth of how her 43-year-old husband came to die in 2006 after fleeing Russia and receiving political asylum in the UK. She was "very glad" the ruling had gone in her favour. "It is just unbelievable. It shows that there was not any reason to say I did not have the right for a public inquiry, I call on Mrs May to "accept this decision." He was poisoned with radioactive polonium-210 while drinking tea with two Russian men, one a former KGB officer, at the Millennium Hotel in London's Grosvenor Square. His family believes he was working for MI6 at the time and was killed on the orders of the Kremlin. It was needed to establish whether Mr Litvinenko was the victim of a crime committed "for private criminal purposes" or whether it was a "state-sponsored

providers of legal advice and assistance? 5. What effects have the LASPO changes had on the number of cases involving litigants-in-person, and therefore on the operation of the courts? What steps have been taken by the judiciary, the legal profession, courts administration and others to mitigate any adverse effects and how effective have those steps been? 6. What effects have the LASPO changes had on the take-up of mediation services and other alternative dispute resolution services, and what are the reasons for those effects? 7. What is your view on the quality and usefulness of the available information and advice from all sources to potential litigants on civil legal aid? Do you have any comments on the operation of the mandatory telephone gateway service for people accessing advice on certain matters? 8. To what extent are victims of domestic violence able to satisfy the eligibility and evidential requirements for a successful legal aid application? 9. Is the exceptional cases funding operating effectively? The dadline for submissions is 30 April 2014.

The personal information you supply will be processed in accordance with the provisions of the Data Protection Act 1998 for the purposes of attributing the evidence you submit and contacting you as necessary in connection with its processing. The Clerk of the House of Commons is the data controller for the purposes of the Act. We may also ask you to comment on the process of submitting evidence via the web portal so that we can look to make improvements. Each submission should: a) be no more than 3,000 words in length b) be in Word format with as little use of colour or logos as possible c) have numbered paragraphs d) include a declaration of interests. please send it to: Clerk, Justice Committee, House of Commons, 7 Millbank, London SW1P 3JA

Please note that: Material already published elsewhere should not form the basis of a submission, but may be referred to within a proposed memorandum, in which case a hard copy of the published work should be included. Memoranda submitted must be kept confidential until published by the Committee, unless publication by the person or organisation submitting it is specifically authorised. Once submitted, evidence is the property of the Committee. The Committee normally, though not always, chooses to make public the written evidence it receives, by publishing it on the internet (where it will be searchable), by printing it or by making it available through the Parliamentary Archives. If there is any information you believe to be sensitive you should highlight it and explain what harm you believe would result from its disclosure. The Committee will take this into account in deciding whether to publish or further disclose the evidence. Please be aware that the Justice Committee is unable to investigate individual cases.

Marina Litvinenko Wins Judicial Review

Application of Marina Litvinenko Claimant - and - Secretary of State for the Home Department and (1) Assistant Coroner for Inner North London (2) Commissioner of Police of the Metropolis (3) Investigative Committee of the Russian Federation

The claimant is the widow of Alexander Litvinenko who died in London in November 2006. By this claim she seeks judicial review of the refusal by the Secretary of State for the Home Department to order the setting up of a statutory inquiry under section 1(1) of the Inquiries Act 2005 ("the 2005 Act") into the circumstances of the death. Section 1(1) provides "A Minister may cause an inquiry to be held under this Act in relation to a case where it appears to him that – (a) particular events have caused, or are capable of causing, public concern, or (b) there is public concern that particular events may have occurred." The Secretary of State had been asked to set up such an inquiry by Sir Robert Owen, the judge appointed to conduct the inquest into Mr Litvinenko's death as Assistant Coroner ("the Coroner").

The matter was listed before us as a "rolled-up" hearing of the application for permission to

to collect fees. “Probation companies have a financial stake in every single one of the cases they supervise,” Albin-Lackey said. “Their employees are the last people who should be entrusted with determining whether an offender can afford to pay company fees.”

In some cases, courts sentence offenders to probation because they think they require supervision and monitoring. But in many cases, people are sentenced to probation purely so that courts can task their probation companies with monitoring an offender’s efforts to pay down fines and court costs over time. These offenders would not be on probation at all if they could afford to pay these costs immediately and in full at the time of their sentencing. Many are guilty only of minor traffic violations like driving without proof of insurance or seatbelt violations. While these offenses often carry no real threat of jail time in and of themselves, a probationer who fails to keep up with payments on their fines, court costs, and company fees can be locked up. “Courts sentence several hundred thousand people to probation with private companies every year but many do almost nothing to guard against abusive practices,” Albin-Lackey said. “Perversely, some of America’s poorest counties are golden business opportunities for the industry precisely because so many residents struggle to pay off their fines.”

Another US State Looks to Curb Solitary Confinement

Julian Brookes, Human Rights Watch, February 4, 2014

In the state of New York on any given day, about 4,500 prisoners are held in solitary confinement, shut up inside bare, often windowless cells no larger than a small bathroom, for 23 hours out of 24, their only respite an hour's solo "recreation" in a not-much-bigger concrete pen. After weeks, months, and even years with little or no human contact or outside stimulus, even the most resilient inmates can suffer severe emotional and psychological damage, while youth, the elderly, and persons with mental disabilities are especially vulnerable.

A bill introduced last week in the New York State Assembly would prohibit solitary confinement for more than fifteen days and ban it outright for certain categories of inmates. “This is a moral issue,” said bill co-sponsor state Sen. Bill Perkins in announcing the legislation, noting that the United Nations has identified long-term solitary as a human rights violation.

Corrections officials typically say they use solitary to protect prison staff and other inmates from violent prisoners. And, true, some inmates are too dangerous to be allowed to mix with the general prison population. But according to a 2012 investigation by the New York Civil Liberties Union most prisoners in solitary New York were there as punishment for minor misconduct (which in fact is often the result of mental illness)

Needless to say, the problem is not unique to New York. Estimates put the number of state and federal prisoners in solitary as high as 80,000, across 44 states, including 25,000 in high-security “supermax” facilities. Solitary has become a routine tool of prison management, imposed on too many prisoners and for too long. Meanwhile, studies suggest that its use may actually increase violence and recidivism.

The good news is that the use of solitary confinement appears to have peaked. A number of states, including Maine, Mississippi, and Colorado have passed laws scaling back the use of solitary – without experiencing a surge in prisoner misconduct.

The federal government and other states, starting with New York, should follow suit. Yes, corrections officials should have the tools they need to maintain order in prisons, punish misconduct, and protect inmates and staff from harm. But prolonged solitary confinement has no place in a civilized society that respects human rights.

17-year History of Professional Incompetence in Victor Nealon Case

Leading investigative journalist Bob Woffinden looks at two cases of sustained failure in the criminal justice system. It is axiomatic that if there had been a seventeen-year history of professional incompetence in, say, a National Health or social services matter, then there would have been a media hue and cry, and interventions by politicians, and official inquiries, and dire consequences for those deemed to have failed in their responsibilities. Heads would certainly roll. In other professional spheres retailing, for example it is inconceivable that there could be such a history of incompetence, merely because the retailer would have failed and gone out of business.

Everything is very different in the criminal justice system where, it seems, sustained failure is unlikely to attract any sanction whatever. As yet, there have been no calls for inquiries into the case of Victor Nealon, whose 1997 conviction for sexual assault was quashed in December last year, despite the egregious shortcomings of almost all of those professionally involved: West Mercia police, the Crown Prosecution Service, the defence (at trial), the prison service and especially since it's supposed to be their job to clear up the mess left behind by everyone else the Criminal Cases Review Commission.

The case began on 9 August 1996 with an allegation of sexual assault by a woman who had just left Rackets night-club in Redditch, Worcestershire, with a friend. The woman resisted her attacker and, as her friend ran for assistance, he broke off and ran away. However, a number of people had already observed him, either in the night-club or the immediate area. He was wearing a garish shirt, spoke with a Scottish accent and, in what should have been a gift to investigators, he had a prominent lump on his forehead. On 15 September, police arrested Victor Nealon, a postman to whom none of those identifying features applied. He immediately agreed to give samples for DNA elimination and to stand on an identification parade.

The victim's friend did not identify Nealon, and the victim herself did not bother to attend the parade. There was no scientific evidence of any kind. Nevertheless, the Crown Prosecution Service somehow imagined that it was in the public interest to send the case to trial. Nealon was convicted. One of the factors that undoubtedly led to the conviction was the use of ambush evidence by the prosecution. This cast doubt on Nealon's alibi that, at the time of the attack, he was at home watching videos with his partner and her daughter. (The evidence concerned a dispute over which films they were watching; the prosecution had not disclosed a statement from the Blockbuster store manager and, by only tendering it at the last moment, gave the defence no opportunity to deal with the evidence).

Nealon's appeal was dismissed in January 1998, but by then the CCRC had been set up and he was one of the early applicants. It was hardly a taxing case; obviously, the twin pillars of concern were seriously questionable identification evidence and the complete absence of forensic science evidence. The CCRC dismissed Nealon's applications in 1999-2001 and again in 2002. The Commission told his lawyers, somewhat patronisingly, that, 'As is usual in cases of physical assault, [the victim's] clothing was submitted for forensic examination', and then concluded its analysis by flatly stating that, 'Forensic tests were carried out on all the clothes seized, but no DNA evidence found'. This was untrue. It was a grievous mistake that was to cost Nealon another fourteen years of his life. Blame for all that he has suffered also lies, of course, with the intrinsically irrational policy administered by the prison service that those who continue to protest their innocence even in cases as clearly flawed as this one must constitute a danger to the public and should not be released.

In time, Nealon found a highly competent solicitor, Mark Newby. I wrote an article for Inside

Western world – even the US and some parts of Australia – have already done: The British government should introduce a Statute of Limitations on sexual abuse allegations, be that limitation 10 or even as long as 30 years. Whilst TheOpinionSite.org concedes that children often find it difficult to make complaints of abuse and inappropriate behaviour at the time it allegedly occurs, they have no excuse whatsoever for not making that complaint within say ten years of their 18th birthday when they are adults. This is the case in France and many other EU states and countries elsewhere. It is a system that works well and which gives redress to those who have genuine complaints, limits the attraction of compensation (which is graduated by the length of time it takes for the individual to come forward) and – most importantly of all – protects individuals from being convicted on the basis of memories from long ago which may or may not be accurate.

This has to be more satisfactory than the CPS and the police bringing cases based on the number of people making accusations and the assistance of a totally biased media that simply wants to sell newspapers or advertising. Whether it be the equalising of anonymity for both defendant and accuser or the introduction of a Statute of Limitations, the British government must introduce one or the other; even if that is unpopular with certain sections of society. Not to do so will leave the British justice system as it is now; completely discredited, laughably ineffective and utterly untrustworthy.

Call For Written Evidence Impact Of Changes To Civil Legal Aid *Justice Committee 10/02/14*

Background: Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) sought to reduce the civil legal aid budget by removing specific areas of the law from scope, either wholly or in part. In making these reforms, the Government intended not only to reduce the legal aid budget but also to encourage the use of alternative dispute resolution procedures such as mediation. The provisions came into force on 1 April 2013.

The Committee undertook a short inquiry into the Government's proposals to reform legal aid when they were at the consultation stage, in the winter of 2010–11. In its Report published 30 March 2011 (Third Report of Session 2010-11, Government's proposed reform of legal aid, HC 681), the Committee raised a number of subjects of concern. The Committee now proposes to inquire into the impact of the LASPO changes. The Committee recognises that certain effects of the changes may not yet be fully clear, but considers that there is sufficient evidence of those effects to enable it to follow up its previous work before the end of the current Parliament. The Committee intends to examine the identifiable outcomes of the legislation against its previous conclusions and recommendations, as well as to consider any new problems which have arisen.

*The Committee invites interested **organisations and individuals** to submit written evidence to the inquiry. A list of questions of particular interest to the Committee is given below, and these may be used to structure submissions, but submissions may address any aspect of the impact of the changes which are of concern or interest.*

Please note that the scope of the inquiry is restricted to the change to civil legal aid made under part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Questions: 1. What have been the overall effects of the LASPO changes on access to justice? Are there any particular areas of law or categories of potential litigants which have seen particularly pronounced effects? 2. What are the identifiable trends in overall numbers of legally-aided civil law cases being brought since April 2013 in comparison with previous periods, and what are the reasons for those trends? 3. Have the LASPO changes led to the predicted reductions in the legal aid budget? Has any evidence come to light of cost-shifting or cost escalation as a result of the changes? 4. What effects have the LASPO changes had on (a) legal practitioners and (b) not-for-profit

because the woman's evidence kept changing and at one point she even admitted that she 'had no memory of the offence taking place', contrary to her statement to the police. She has not however been prosecuted for Perjury or Perverting the Course of Justice.

The fact that the trial has cost Mr Roache hundreds of thousands of pounds that he cannot reclaim, cost the tax payer nearly half a million pounds, dragged an 81 year old man through the courts and possibly done his health irreparable harm does not worry these accusers. However, given that most of the accusers in the Roache case only came forward after the publicity following Mr Roache's arrest and charge for rape (of which he was found to be not guilty), it is quite probable that had he been given the anonymity enjoyed by his accusers, most of these discredited women would not have tried their luck in the first place.

The CPS argue that they will only bring a case if "there is a real prospect of conviction."; not usually a difficult thing to achieve in these cases if, as they do, most jury members have children and if all the alleged victims in the case are (or were) children at the time of the alleged offences. This defensive argument from the CPS ignores however the fact that the test for the jury is completely different.Juries are only supposed to convict if they are "sure beyond reasonable doubt" that the defendant is guilty of the offence(s). Both these tests however ignore the most fallible element of all in a criminal trial: the emotions of the jurors.

TheOpinionSite.org believes that today's, feminist-fearing MPs will never support the idea of anonymity for defendants. Weak MPs generally argue that one should not distinguish between sexual offences and other types of offence – even though they have been doing that for the last 20 years for purely political gain. There is not a single MP currently in the House of Commons who has ever voted against even a single measure brought in against sex offenders; even though similar measures have not (and will not) be introduced for armed robbers, those convicted of appalling violence, murderers or convicted drug-dealers. Therefore, the distinction between types of offence already exists and was created by the MPs themselves, largely in response to the campaigning of women's groups and the child protection industry.

In the case of another acquitted Coronation street actor, Andrew Lancel who was accused of abusing an underage boy, the trial judge, Clement Goldstone QC, speaking to the defendant's barrister, Andrew Menary QC, said: "The defendant was acquitted on the evidence, and rightly so, but it is important that the complainant who is clearly scarred by an experience, should understand that the jury verdicts do not necessarily involve rejection of his account of a sexual encounter or encounters with the defendant. It is a statement that the prosecution have failed to make the jury sure that abuse of the type alleged occurred during the period covered by the indictment and in particular before the complainant's 16th birthday, now more than 18 years ago." Whilst this may bring some satisfaction to the accuser – even if he was lying – it does not mitigate the fact that Lancel was subjected to a process of media trial and accusation; something that accusers in sex abuse cases never have to endure.

TheOpinionSite.org dares to suggest – no doubt to howls of anguish from those with a vested interest in maintaining the status quo – that if accusers did not have the shield of anonymity that they currently enjoy, they would have to produce real evidence to support their allegations AND bring the complaint forward in a reasonable time. The obvious answer to this conflict of interests therefore is to give neither side anonymity – although as a result, the number of "brave victims" coming forward is likely to diminish and a number of child protection 'experts' and charities, women's groups and child protection training companies will likely go out of business. So would a few lawyers.

The other way of solving the problem is to do what every other civilized government in the

Time, explaining why the case was a miscarriage of justice. As a result, Inside Time was contacted and we were given the probable name of the attacker, someone who had both a Scottish accent and a prominent lump on his forehead and who was at the time in a Scottish prison. That was six years ago. Newby quickly established from the police that clothing in the case was never sent for testing; and the Forensic Science Service confirmed to him that no clothes had been submitted for examination. If only the CCRC had done its job eleven years earlier…

So Newby now got the clothes tested. The forensic science report, dated 28 May 2010, confirmed that there was no scientific evidence that Nealon was involved. It also revealed, on parts of the clothing where one would have expected the attacker's DNA to be found, the presence of DNA from an unknown male. One would have thought that this was the time for real urgency. Unfortunately, carpe diem is not a hallowed phrase at CCRC towers. Newby's striking achievement in establishing the innocence of his client beyond reasonable doubt met only with further resistance. In their continued procrastination, the CCRC set about trying to establish whose DNA the unknown male's could be, and consulted the victim.

It should be pointed out at this stage that the victim had not previously been highly thought of. The Court of Appeal judges were certainly unimpressed with her, given that some of her testimony had been influenced by "dreams". 'We accept', Lord Justice Rose had said, 'that the complainant's account grew somewhat more graphic as time went on.'

So another year passed. The CCRC asserted that it was 'carrying out its statutory function of determining whether the statutory test is met'. Everyone involved with the defence, however, believed that the test already had been met. In July 2011, Newby filed an official complaint about the CCRC's inaction, pointing out (among other things) that its apparent view that a lump on the forehead could miraculously appear and disappear was 'absurd'. Finally, in 2012, the case was referred. In December 2013, after this astonishing seventeen year saga of gross professional failings, justice was achieved.

The CCRC might now like to take the lessons it has, we hope, learned from this case, and apply them to the Andrew Malkinson case, which is another conviction for sexual assault. It is another in which the CCRC has so far failed to act. There are two astonishing parallels in these cases: first of all, the readiness of both Nealon and Malkinson to volunteer DNA samples was used against them at trial by the prosecution as "evidence" that the defendant, being the attacker, knew that he had left no incriminating scientific deposits. (In fact, it is contrary to any notion of a fair trial that prosecutors are allowed to get away with such rhetorical nonsense).

Secondly, in both cases a conviction that should have been based on scientific evidence was instead based on identification evidence. This evidence itself was, however, obtained in the most dubious circumstances. In Nealon's case, one of the witnesses was "beckoned over" by a police officer and subsequently changed his evidence; in the Malkinson case, similarly, one key witness spoke to an officer after the parade and changed her identification.

There are two final points about the Nealon case. Firstly, the CPS could have graciously conceded the appeal. It did not. Instead, it was contested. The CPS suggested that the DNA could have been deposited by a shop assistant. Presumably, it will not be advancing this argument in other cases of sexual assault that it is prosecuting. Secondly, when Nealon's appeal was heard, he was 185 miles away in Wakefield prison. He was deprived of his moment in the spotlight on the steps of the Royal Courts of Justice. This may be a very minor scandal at the end of a litany of scandals, but it is a scandal nevertheless.

The appeal court judges, who made a point of saying that they had read the case papers

very thoroughly beforehand, must have known that there was a good chance that he would be freed. Yet he was allowed to appear only by videolink. Everything that for years he had dreamed of saying on the steps of the Royal Courts would remain unsaid. It seems to me that one's natural rights include not just having an appeal but also being able to attend it.

Publicly, the Ministry of Justice would no doubt maintain that they were saving costs. As we all know, there is an ulterior motive. The government's real objective is to inhibit embarrassing publicity an objective that, sad to report, was effectively achieved.

Convicted of a Crime -You Will Have to Pay Costs of Court

Extended Determinate Sentenced (EDS) prisoners to spend longer in jail

Chris Grayling Strikes Again and Again and Again, I will punish offenders, properly and consistently. Criminals will be made to pay towards the cost of their court case under legislation introduced to Parliament today by Justice Secretary Chris Grayling. The new measure is part of the wide-ranging Criminal Justice and Courts Bill, unveiled today 05/02/14 by Chris Grayling, aimed at revamping sentencing and ensuring the courts deliver efficiency for the taxpayer.

The reforms ensure criminals are punished properly, with the scrapping of automatic early release for terrorists and child rapists. Sentencing loopholes will also be closed, with the creation of a new offence for being on the run. Changes to cautions will also help deliver a fairer justice system that will make communities safer.

The ambitious but vital Bill includes plans to:

Make criminals contribute towards the costs of running the courts system by imposing a new charge at the point of conviction.

Introduce a new offence with a punishment of up to two years in prison for criminals who go on the run while serving the non-custodial element of their sentence.

End the automatic half-way point release for criminals convicted of rape or attempted rape of a child, or serious terrorism offences,

no longer automatically releasing offenders who receive the tough Extended Determinate Sentence (EDS) two-thirds of the way through their custodial term.

Ban the possession of explicit pornography that shows images depicting rape. It is currently illegal to publish this material, and the new legislation will close a loophole to also prevent possession.

Stop criminals receiving cautions for serious offences, and for less serious offences stop them receiving a second caution for the same, or similar, offence committed in a two-year period.

Create four new criminal offences of juror misconduct to ensure fair trials and prevent miscarriages of justice.

Put education at the heart of youth custody by introducing secure colleges, a new form of secure educational establishment for young offenders.

Support economic growth by speeding up the Judicial Review process with measures to drive out meritless claims and get rid of time-wasting delays.

Justice Secretary Chris Grayling said: “My priority with these reforms is to deliver a tough package of sentencing measures to make sure offenders are punished properly and consistently, so that the law-abiding majority know that we’re making the changes needed to keep them and their families safe. I also what to make sure we reduce the burden on hardworking taxpayers of the costs of running the courts. The public expects that serious and repeat criminals should be punished appropriately, and that those who are jailed should have to earn the right to be released early from prison. It is only right that those offenders who break the law

something has been proven – is entitled to anonymity, how can the defendant possibly be denied the same protection? After all, both sides must be equal.

Let us, for the purposes of this article at least, ignore the views of the seemingly fanatical prosecutor for the North West, Nazir Afzal and the undoubtedly biased, former Director of Public Prosecutions (DPP), now ‘Sir’ Keir Starmer. In our view, the opinions of neither man can be trusted as Afzal has openly stated that bringing more sex abuse cases to court is “a growing industry” and Starmer now works for the Labour Party as some kind of “victims’ rights advisor”, whatever that is. No doubt Mr Starmer is lining himself up to be the next head of the NSPCC and Mr Afzal thinks that one day he might become DPP; so let us forget about both of them despite the fact that they have both been defensively vocal recently.

Anonymity for Defendants: Accusing someone of sexual assault, child abuse or rape is the perfect blunt instrument, particularly as everyone who makes such an accusation in today’s Britain is now automatically a ‘brave victim’ whether they are telling the truth or not. As a result of a consistent drive by MPs to erode the rights of defendants, the accuser now hides behind an impenetrable screen of anonymity whilst the accused has his name plastered all over the media and his life is completely ruined; whether he is eventually proved guilty or not.For precisely the reasons outlined above, anonymity was in fact granted to rape defendants under the 1976 Sexual Offences Act, but was removed in 1988 following political pressure from women’s groups and other campaigners and charities.

The argument put forward by charities and women’s campaigners as to why defendants in rape and sexual assault cases should not have the same anonymity as accusers is that if defendants had anonymity, other “brave victims” would not come forward, especially in historic cases. Their argument goes on that despite all these people have, apparently without exception, had their lives ‘destroyed’, they still don’t want to tell anyone about what happened……unless of course others do so as well – always safe in the knowledge that they can make whatever allegations they like because no one will ever know who they are, regardless of the outcome of any trial.

Naturally, the CPS and police make the same argument as both organisations know full well that the more accusers there are, regardless of the standard of evidence, the greater the chances of conviction. This is one reason why the police are always appealing from the steps of the court for anyone who feels they are a “victim” to come forward. In fact, the CPS and police go one step further and state that anyone who does in fact come forward “will be believed” – even before the facts of any accusation have been investigated. By definition therefore, in the view of the CPS and police, the accused is automatically assumed to be guilty.

To most juries (and policemen for that matter), if enough people say the same or similar things, then ‘it must be true’. In the report by the police and the NSPCC on Jimmy Savile, there is no real evidence at all; just a long list of accusations – many of which have an uncanny resemblance to those accounts already published in the tabloids and other media. The man in charge, Cmdr Peter Spindler – who mysteriously quit when the criticism started – also said, “If so many people are saying the same thing, it must be true.” The view of the CPS and police therefore is only too clear: the accused is always guilty.

The charities and women’s groups deny any possibility that people may make false accusations or be out to make money from compensation or press coverage. According to these organisations and like-minded individuals, women never lie. TheOpinionSite.org would point out that in the Roache trial, the judge had to order the acquittal of Mr Roache on one count

following the deaths of children in custody since 2000. A summary of some the key actions taken by the Youth Justice Board and the Government to respond to findings from the deaths of children in custody are set out below: The introduction of systems to improve the timeliness and quality of information sharing, particularly when children enter custody. This has happened alongside the roll-out of a new documentation which better identifies children's needs and the risks posed to them Improved processes and more robust quality assurance for placement decisions to ensure that placement decisions meet the needs of individual children The development (with the Department of Health) of the Comprehensive Health Assessment Tool (CHAT), which has been specifically designed for use in the youth justice system to enable timely identification and assessment of the health-related needs of children by professionals The commissioning of Health Care Standards for Children and Young People in Secure Settings The introduction of a new system of restraint for use in Secure Training Centres and Young Offenders Institutions: Minimising and Managing Physical Restraint, together with NOMS Improvements in the advocacy services the YJB has commissioned for children in custody since 2004 Revised National Standards for Youth Justice Services that take account of recommendations from deaths in custody Development of comprehensive and specific training for staff working with children in YOIs Investment in the physical custodial environment, including increased CCTV coverage in communal areas Inclusion in the YJB's Behaviour Management Code of Practice of a requirement to ensure that secure estate providers use restorative justice as a key and proven method of repairing harm and resolving issues

Prisoner Mohamoud Ali Dies at HMP Parc, Bridgend

An investigation is under way after an inmate died at Parc Prison in Bridgend. Mohamoud Ali, 36, was found "unresponsive" in his cell by staff at HMP Parc at about 07:00 GMT on Saturday, 1 February. The Prison Service said: "Prison staff attempted CPR and paramedics attended but he was pronounced dead at 7.49am. "As with all deaths in custody, the Independent Prisons and Probation Ombudsman will conduct an investigation." Private security contractor G4S, which runs the prison, confirmed Mr Ali was a "foreign national from Somalia".

Reintroduce Anonymity for Defendants in Sex Abuse Cases

By Raymond Peytors - theopinionsite.org, February 8, 2014

After yet another high-profile case is lost by the CPS, this time in the trial of William Roache, it is time to reintroduce anonymity for defendants accused of sexual abuse or rape. At the very mention of the subject, women's groups, child protection "experts", the (some would say rather unreliable) NSPCC and other so-called 'charities' all inevitably and immediately scream, "No! No! No!", well aware that if such anonymity were in fact granted to defendants, many of these organisations and individuals would soon become redundant.

TheOpinionSite.org has for some years now been making the point that for the term 'justice' to mean anything of value, both sides in the adversarial arena must have 'equality of arms'; indeed, such a principle is at the very heart of the British Criminal Justice System and has been since Magna Carta in 1215 and the Bill of Rights in 1689.

To be clear, this fundamental principal does not mean 'limited equality of arms'. For example, if the Crown Prosecution Service engage a QC to present their case, the Defence will also be entitled to a QC, even at public expense if necessary. If expert witnesses are called by one side, the other may also do so. So, if the accuser in the case – for there is no 'victim' until

and try to avoid serving the entirety of their sentence by going on the run face additional punishment when they are caught. From my first day in this job I have been clear that people must have confidence in our justice system. We're on the side of people who work hard and want to get on, and that is why these reforms will make sure that those who commit crime pay their way and contribute towards the cost of their court cases."

Criminal Justice and Courts Bill proposes the following changes to the law:

New Offences of Juror Misconduct: To reflect the changes to modern society, four new offences of juror misconduct will be introduced – researching details of a case (including any online research), sharing details of the research with other jurors, disclosing details of juror deliberation and engaging in other prohibited conduct.

New Criminal Offence of being Unlawfully At Large: Criminals who go on the run will face an additional sentence of up to two years. Offenders who have been released from the custodial part of their sentence and are recalled to custody because they have breached their strict licence conditions but do not surrender to custody are unlawfully at large. Once apprehended they may serve the remainder of their sentence but currently there is no additional punishment for these offenders.

Ending Automatic Early Release for Paedophiles and Terrorists: Criminals convicted of rape or attempted rape of a child or serious terrorism offences will no longer be automatically released at the half-way point of their prison sentence. Under proposals in the Bill they would only be released before the end of their custodial term at the discretion of the independent Parole Board.

Alongside this, no criminals who receive the tough Extended Determinate Sentence (EDS) will be released automatically two-thirds of the way into their custodial term. This means that many of them will end up spending significantly more time in prison. In total these changes will affect about 500 offenders per year.

Clampdown on Cautions for Serious and Repeat Offenders: Criminals will no longer be able to receive a caution for the most serious offences such as rape and robbery and for a range of other serious 'either way' offences, for example possession of any offensive weapon, supplying Class A drugs or a range of sexual offences against children. For less serious offences, criminals will also no longer be able to receive a second caution for the same, or similar, offence committed in a two year period. In total these changes are likely to affect around 14,000 offenders a year.

Life Sentences for More Terrorist Offences: The maximum sentence for three terrorist offences - weapons training for terrorist purposes, other training for terrorism and making or possession of explosives, will be increased to a life sentence. Terrorists convicted of a second very serious offence will face the 'two strikes' automatic life sentence.

Charging Offenders for Court Costs: Convicted criminals will be made to pay towards the cost of running the country's criminal courts. All convicted adult offenders will have to pay a charge; the money will be reinvested back into the running of the courts.

Single Magistrates to Handle Low-Level Cases: More than three quarters of a million low-level 'regulatory cases', such as TV licence evasion and road tax evasion, may be dealt with by a single magistrate rather than a bench of two or three. Legislation will allow a procedure to enable some summary-only, non-imprisonable offences to be dealt with by a single magistrate, supported by a legal adviser, away from traditional magistrates' courtrooms.

Banning Violent Rape Pornography: Possession of explicit pornography that shows images depicting rape will become illegal. It is currently illegal to publish this material and the new legislation will close a loophole to also prevent possession.

Overhauling Detention of Young Offenders : The rehabilitation of young offenders will be

overhauled by introducing secure colleges. Led by a principal, the secure college will put education at the heart of youth rehabilitation. The legislation follows the announcement on 17 January that a pathfinder secure college will be opened in the East Midlands in 2017.

Increase Juror Age Limit : People aged 75 and under will be able to sit as jurors in England and Wales. The move is part of a drive to make the criminal justice system more inclusive and to reflect modern society by giving more people the opportunity to serve on a jury. The current age limit is 70.

Judicial Review Reform: Economic growth will be supported by measures to speed up the Judicial Review process and reduce the number of meritless claims clogging the system, as part of a wider package of reforms also being announced today.

Crown Prosecution Service (CPS) Thames Valley - Unfit for Purpose

Prosecutors in the Thames Valley have been criticised for "poor legal decisions, weak case progression and a low rate of successful outcomes". A report published by Her Majesty's Crown Prosecution Service Inspectorate found evidence of CPS Thames Valley prosecutors in Oxfordshire, Berkshire and Buckinghamshire trying to mistakenly continue cases and struggling to process some others. The inspection concluded that greater attention must be paid to individual performance management.

Displacement of Residents/Vehicles and Legal Powers to Enter

Securing a Crime Scene, Police Oracle, 06/02/14

Some crime scenes are located in areas difficult to contain. These may be where residents have possessions or vehicles that get stranded inside a cordon, or even residences or business premises where the placing and security of cordons means that innocent people become effectively displaced and their lives disrupted. An example is when cordons are placed in streets within residential areas. Residents can become trapped or displaced, together with their vehicles, inside the cordon and sensible solutions are the answer. Freedom of movement can be facilitated by devising and recording (in consultation with the CSM), an appropriate strategy, e.g. utilizing protective clothing or, in the case of vehicles, having them examined by a CSI, and recording or photographing their position.

When satisfied there is no link to the crime, supervised removal can be arranged. Residents can sometimes be permitted to use their rear doors as opposed to front, and if necessary put into protective suits to allow access in and out of the cordon. A protectively suited officer can visit each address to explain to residents the arrangements for their movements and the reasons, with an explanatory note from the SIO and/or local police commander apologizing for the inconvenience. This should be recorded in the 'community impact assessment' (CIA) document.

Legal powers - entering and securing crime scenes: The vast majority of the law-abiding public are quite willing to cooperate with the police and allow access to and examination of scenes of crime. Clearly it is sensible for them to follow police advice which may be supported by other agencies such as the fire and rescue service, health professionals, or local authority representatives. There are also legal powers conferred in ss 8, 18, and 32 of PACE to secure premises for the purpose of a search. However, there may still be some lingering doubts over general crime scenes, particularly those on private property.

In the case of DPP v Morrison QBD, 4.4.03; (Telegraph, 17.4.03; The Times, 21.4.03), a decision confirmed that under common law the police do have a power to erect a cordon in order to preserve the scene of a crime. The Divisional Court upheld this rule in this case and,

given the importance of this function in investigating serious crime, it would have been highly surprising had it done otherwise. It is probably because of the ruling in this case that no legal power has, to date, been enacted. The case of Rice v Connolly (1966) QB P414 had previously re-affirmed long established principles that have not been challenged. It was confirmed that the police are entitled to take all reasonable steps to keep the peace, prevent and detect crime, and bring offenders to justice. It is within these principles that the police are entitled to secure scenes of crime for examination by specialists, forensic scientists, etc.

It follows that, if any individual were to frustrate, hinder, or obstruct the securing of a crime scene, that person would commit an offence of obstructing a police officer in the execution of their duty. This would include any civilian police employee such as a crime scene investigator who is regarded as an investigator under the provisions of the Criminal Procedure and Investigations Act 1996 (CPIA).

The Murder Investigation Manual also provides some useful advice: Where a scene is on private property, SIOs will need to negotiate access with those in control of the premises. Considerable tact and diplomacy will often be necessary for this, particularly where the scene is occupied or controlled by a suspect's family or associates or where the scene requires to be searched for objects suspected of being buried or concealed. If necessary, alternative arrangements should be made for their accommodation until the scene is released. Where a crime scene is likely to have a significant impact on commerce, SIOs should consult their force legal department for advice about the length of time it can be held. [Murder Investigation Manual (ACPO Centrex), 136]. Note: If the incident under investigation is terrorist related the police have powers to impose and enforce cordons under sections 33-36 of the Terrorism Act 2000.

Independent Review Into Deaths Of 18-24 Year Olds In Custody

[Deborah Coles, co-director of INQUEST said: "We welcome the government's belated recognition that there is a need for independent scrutiny of the deaths of 18-24 year olds in prison. INQUEST and the families we work with have been calling for an independent review since October 2012 when we launched Fatally Flawed - our joint report with Prison Reform Trust.

"However it is shameful that the deaths of children under the age of 18 are excluded from this review given that some of the most compelling evidence about systemic failings is raised by these cases. The narrow remit of the review is also a cause for concern – the journey into custody is as relevant to the deaths of these young people as what happens to them inside prison walls. A review is the only way to examine the reasons young people end up in the criminal justice system in the first place as it is beyond the remit of the investigation and inquest process. This is a missed opportunity to conduct a wide ranging and holistic independent review, with the effective involvement of families, that would contribute to preventing future deaths in prison. We will be raising our concerns with the Prisons Minister at the meeting of the Ministerial Board on Deaths in Custody next week."]

The Ministry of Justice has announced that it will be establishing an independent review into the self inflicted deaths of 18-24 year olds in custody. The review will be conducted by the Independent Advisory Panel (IAP) on Deaths in Custody. The purpose of the review will be to make recommendations for reducing the risk of future deaths in custody focusing on 18-24 year olds but it will also identify learning that will benefit all age groups.

Learning from deaths in the under-18 secure estate

The YJB will shortly publish its own report which identifies learning and the actions taken