Law of Joint Enterprise Needs Review, Leading Academics Tell MPs

MPs on the Justice Select Committee were told that the law of joint enterprise can cause miscarriages of justice and needs to be reviewed. During the opening session of the Committee's follow up enquiry into joint enterprise several leading academics, journalists including a member of the Bureau of Investigative Journalism, campaigners and victims' representatives spoke about their concerns at the hearing today. Those raising concerns included Saj Tufail, whose son was killed in a joint enterprise murder. He said the law needed to be revisited.

Joint enterprise is a doctrine of common law that was developed by the courts to allow more than one person to be charged and convicted of the same crime. Often used in murder cases, the doctrine does not require proof that you intended someone to die or that you directly took part in their death. You only have to foresee that one of your group might intentionally cause someone else serious bodily harm, and you can be found guilty of murder. "The threshold for culpability is very low but the penalties are so high," Dr Ben Crewe, of the Institute of Criminology at Cambridge University, told MPs. A murder conviction automatically incurs a life sentence, regardless of your level of involvement.

While Mr Tufail said the evidence in his son's case was convincing against both defendants, he had heard of several joint enterprise cases that caused him concern. "I feel sorry for some of the youngsters that have been convicted under joint enterprise. Perhaps they should have been convicted under a different law and should have served some time, but if they weren't involved in the actual blow that caused the fatality, then they shouldn't be convicted of murder," he told MPs. "If there's a group of people involved, you want to know who struck the fatal blow, for closure," he said. "Sometimes that's not possible and in some cases you want everyone to be convicted. I think this is where there needs to be balance. There needs to be some sort of review." Adam Pemberton from Victim Support also said greater clarity on joint enterprise law would benefit both those who are convicted and victims and families of those who are bereaved.

The Committee heard that joint enterprise can cause miscarriages of justice. Dr Matthew Dyson, from Cambridge's Faculty of Law, told the Committee, "Absolutely it produces miscarriages of justice." Dr Crewe said that using joint enterprise makes miscarriages of justice "more likely". Dr Crewe outlined to the Committee the findings of a study conducted by the Institute which showed young black men are disproportionately convicted by joint enterprise. The study found there were three times as many young black/black British men serving life sentences as a result of a joint enterprise conviction than there are in the general prison population. "The concern is that joint enterprise might be working as a kind of dragnet, pulling in a disproportionate number of young black men and normal social relations between ethnic minority men in disadvantaged areas are, in effect, being criminalised."

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, Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, 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, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 494 (11/09/2014)

Sussex Police Act first, Cover up Later!

On the 05.12.13 I was stopped by Sussex Police for a variety of reasons. 1. Using a public telephone box (suspicious behaviour apparently) 2. A known associate had been in the area earlier that day. 3. Suspicion that my bicycle was stolen (it has been proved that this was incorrect) 4.I am a priority target for Sussex Police and will be stopped every time that they see me (a clear breach of the Police and Criminal Evidence act 1984 code of practice 'C' and tantamount to harassment).

All four of these reasons were given by the same officer at my trial that took place between the 2nd-6th June 2014 at Woolwich Crown Court. After being what I can only describe as 'kettled' between two phone boxes I walked away from the police and was followed and then pepper-sprayed (apparently I was being aggressive and violent whilst 'walking away') One officer drew his police baton and dropped it, I picked it up so that he wouldn't be able to strike me with it and ran off up the road (having been pepper-sprayed this seemed like the best idea) The police allege that I was chasing them, it's a bit hard to chase someone if you can barely see anything. As I was running I was tackled by another officer who I didn't even see, the police allege that I ran up to this officer and struck him full force with the baton several times. He suffered a very minor scratch behind his ear most likely caused by a finger nail during the ensuing melee either by myself or one of his colleagues, it was certainly not caused by me hitting him several times at full force with a solid steal police baton. The picture was taken only a couple of hours after the incident and you can see there are no lumps or bruising, he didn't even go straight to the hospital, but instead made his way to Worthing Police station, whilst on his way he received a phone call from other officers telling him to go to Durrington Custody Centre to make his statement with his colleagues so they could collude no doubt.

In total I had three cans of pepper-spray used on me, two sets of leg straps, handcuffs and a 'spit-hood' (basically a black bag placed over my head) moreover whilst I was pinned down to the floor and being subjected to the above measures I was told in no uncertain terms that if I tried to run away (as if) I'd be tasered (taser officers arrived on the scene after I was attacked, thank God) A female officer (PC Saunders) then said to another officer that she wished that she had got there sooner so that she could 'taser' me, whilst a male officer asked if there was any cameras in the van (No prizes for guessing why)

Subsequently as a result of police lies and cover-ups I was convicted of attempted GBH and affray and sentenced to 10 years imprisonment. Sussex Police have a cavalier attitude in regards to the use of pepper-spray and tasers, they stop at nothing to cover-up their own wrong doings. It is not just people like myself (a convicted criminal) who suffer at the hands of police cover-ups and brutality 'man pepper-sprayed by Sussex Police drowns' (BBC news, 20.05.14) and 'innocent man pepper-sprayed to death by (Sussex) police' (Dearden, The Independent) The man in the case reported by the Independent was also tasered twice, his crime having an epileptic fit! There are so many cases out there like this and judging by these two I got off lightly, but how many more cases are going to follow before Sussex Police are held accountable for their actions?

Ross MacPherson A6791AD: HMP Belmarsh, Western Way, Thamesmead, SE28 0EB

Hidden Mischief of Police Cautions *Stefano Ruis, Hickman Rose Solicitors, Justice Gap*

Cautions are sometimes referred to as a 'slap on the wrist'. This can be a damaging misconception. Although accepting a caution avoids direct punishment and the ordeal of going to court, it has its own long-term consequences that can impinge upon your personal life and career in ways that are often overlooked. Nearly 400,000 cautions were issued by police across England and Wales over the last two years (here). These cautions were added to the Police National Computer that is searched by the Disclosure and Barring Service, the body that conducts criminal record checks and issues criminal record certificates to assess a person's suitability for employment in certain roles.

A new filtering system has been introduced to reduce the circumstances when cautions must be disclosed partly as a consequence of a case known as 'T'. However there are a range of exempted fields where cautions will still be disclosed to prospective employers. Cautions will not be filtered if they relate to listed offences or have been issued to someone with a previous conviction. Cautions issued to adults within the past six years will also be disclosed and a shorter period of two years applies to police warnings issued to children under the age of 18. Though legislation allows individuals to not disclose 'spent' convictions to prospective employers (cautions are "spent" as soon as they are given), this does not apply in respect of certain regulated occupations, positions of trustand when someone works with children or vulnerable adults.

Being cautioned also has ramifications for established professionals. Doctors, lawyers, registered financial practitioners and armed forces personnel who are cautioned may face separate investigations and ensuing disciplinary proceedings depending on the alleged transgression. The quandary for professionals is that if they are subsequently convicted after refusing to accept a caution, a disciplinary committee is likely to factor in dishonesty to their determination.

Before the administration of a caution can be considered, there must be a clear and reliable admission to the offence in question. In practice, indications are often given before a police interview that a caution is likely to be offered in the event of an admission. An 'admission' can be interpreted very loosely in circumstances where police have monthly targets for 'sanction detections', which include cautions. Although it is a police requirement to ask people to sign a form setting out the implications of a simple caution, the use of varying formats across different police areas exacerbates the likelihood of inconsistent practice. Although there is a risk of people foregoing legal advice and accepting a caution for an offence they did not commit, there are also pitfalls for those who do accept legal advice. With the ongoing decline of legal aid, the quality of legal advice available at police stations is patchy at best. These factors can result in suspects not raising a defence to the allegation that is in fact available to them or perhaps not realising that they have raised a defence during interview. In the absence of proper legal advice, a suspect arrested on suspicion of a minor assault may accept a caution far too readily without realising that by raising self-defence it renders the matter unsuitable for caution.

There are many instances when accepting a caution is the most appropriate course of action. There are also occasions when individuals accept police cautions far too hastily to curtail the unpleasant experience of being in police custody. Even with the introduction of the filtering system it is vital to appreciate that a caution from the past can still disproportionately encroach on your future in a range of different ways. Anyone who believes they have mistakenly accepted a caution should seek early legal advice. Depending on the circumstances, police cautions can be overturned but swift action is normally required. Individuals are often unaware of the significance of accepting a caution until it resurfaces unexpectedly at some future event when it is too late to initiate a legal challenge. It is only at this stage that realisation dawns that a caution can be much more than a mere slap on the wrist.

Council of Europe would presumably be a matter for all 28 EU member states to decide.

A*re there other options for the UK short of pulling out?* People have talked about renegotiating the UK's membership. But it seems unlikely that the Council of Europe would give special privileges to one particular state. Other members might think it better for the Council of Europe to lose a country that values human rights rather than to dilute obligations that are respected by countries which do not.

Is there a compromise? According to Lord Faulks, the justice minister, Conservatives want the court to be "far less intrusive in areas where we have a clear view expressed by parliament as our sovereign body". And that is just what the court clearly tried to be earlier this month when it decided that prisoners who had been denied their right to vote would not be awarded compensation or even their legal costs, thus deterring further applications. Is that enough for the Conservatives? Apparently not. They argue that the human rights court should never have ruled on claims such as prisoner voting. These issues, they say, should be a matter for parliament and the UK supreme court. Those bodies should be sovereign.

Aren't they already sovereign? They are in the sense that I explained earlier: the UK courts need only take Strasbourg rulings into account; and they cannot use the Human Rights Act to overrule incompatible primary legislation. But they are not sovereign for so long as the UK is committed under international law to abide by judgments of the human rights court.

What about a democratic override? In the UK — though not in some other democracies, such as the United States — the legislature always has the last word. Parliament can overrule — or override — decisions taken by any court. By contrast, the human rights convention gives the court and the Council of Europe states the last word. Lord Judge, the former lord chief justice, is one of many distinguished lawyers who argue that the human rights court has too much power.

So how would the Conservatives make parliament supreme? According to Dominic Grieve, "the proposal that seems to have been floating about is that a Conservative government should enact primary legislation to state that, while Britain would still adhere to the European convention, no judgment of the European court of human rights could be implemented without parliament having approved its implementation in some way".

Would that work? As a matter of domestic law, it would be fine. But an act of parliament cannot override the UK's treaty obligations. Non-implementation of a ruling by the human rights court would continue to be a breach of international law while we remained part of the convention.

Could the UK live with that breach? It might damage Britain's international reputation and moral authority. Grieve says the ministerial code would have to be amended so that officials could draft legislation that would otherwise breach the UK's international legal obligations.

So it would be better to pull out of the convention? It would be more honest; though it would do political damage to the UK and the convention itself.

But at least it would give the UK control of its own human rights laws? No. We would remain signed up to by the EU's charter of fundamental rights. This can be used to trump other acts of parliament when the courts are interpreting legislation required by EU law. If the UK pulls out of the human rights convention, Grieve fears that the EU court of justice in Luxembourg — nothing to do with the human rights court in Strasbourg — would expand its role, requiring the UK to comply with human rights judgments.

So we would have to leave the EU too? Yes. If we want to be sure we can make our own decisions on human rights in future without any risk that they will be overturned by a foreign court, the way forward is clear: we shall have to leave the Council of Europe — and the European Union.

dures are available. That is because it was thought that ministers would want to reform an incompatible law before the claimant could go to Strasbourg and defeat the government.

What does "take into account" mean? Many judges have expressed many opinions. Clearly, the statute does not make decisions of the human rights court binding on our own judges. But neither are they free to ignore Strasbourg decisions. Otherwise, a disappointed claimant would simply take a case to the human rights court and, again, the government would probably be defeated. Some people think that judges in Britain are too willing to go along with a court that is constantly reinterpreting and developing the convention as a "living instrument". But rewording the phrase "take into account" might not help a judge decide whether or not to follow a particular Strasbourg decision.

What would be the effect of repealing the Human Rights Act? It depends whether parliament puts anything in its place. If there is no replacement, then we are back to where we were before October 2000. People would be able to enforce their human rights, but they would have to go to Strasbourg to do so. That is the theory, anyway. In practice, I think that UK judges who have spent their judicial careers enforcing human rights would find ways of continuing to do so, perhaps by ruling that convention rights such as privacy have now become part of the common law.

What would happen if parliament enacted a "British" bill of rights? If it contains rights that are based closely on the convention, as currently interpreted by the human rights court, then we would be in the same position as we now are. But the more convention rights that are missing from the new act, the more cases would go to the Strasbourg and the more defeats the UK government could expect to suffer.

What effect do those defeats have? Article 46 of the human rights convention says that the states "undertake to abide by the final judgment of the court in any case to which they are parties". That means their governments must seek a change in the law.

What if they do not? Enforcement is the responsibility of the Council of Europe's committee of ministers. That is made up of the member states, which operate through their ambassadors in Strasbourg. Ever since the human rights court confirmed in 2005 that the UK's blanket ban on voting by convicted prisoners was a breach of their human rights, the committee has monitored the UK's non-compliance with that ruling. In March, the committee again urged the government to introduce legislation.

What if Britain simply refuses to abide by the court's judgment on prisoner votes? There has been a tacit understanding for some years that the committee would not make much of a fuss before the next general election. If the next government fails to take action, the UK could, in theory, be forced out of the Council of Europe. But the UK has always implemented the court's decisions and nobody wants to provoke a crisis.

What options are open to a government that does not want to abide by a decision of the court? Article 58 of the convention allows a member state to "denounce" the treaty — which means to pull out of it. Six months' notice is required and denunciation does not release a country from its existing obligations. But it would be difficult to enforce those obligations once a state had left.

What would the political consequences be? There can be little doubt that UK would have to leave the Council of Europe if it pulls out of the convention. Although there is much more to the Council of Europe than human rights, no country can join the 47-member body without first agreeing to be bound by the human rights convention.

But that's not the same as leaving the European Union? The two bodies are separate, though often confused and are becoming more closely connected. No country can join the EU without first joining the Council of Europe. But whether the UK could stay in the EU after leaving the

$41 Million Settlement For Wrongfully-Convicted 'Central Park Five'

A federal judge has approved a $41 million settlement between New York City and five men wrongfully convicted of the 1989 rape of a woman jogger in Central Park, ending a decade-long civil rights lawsuit stemming from the infamous crime. The settlement's details had been previously reported but were publicly disclosed for the first time on Friday, when U.S. Magistrate Judge Ronald Ellis in New York signed off on the deal.

The brutal attack, known as the "Central Park Jogger" case, drew national headlines and was cited as evidence that the city's crime rate had spiraled out of control. The five men, all black or Hispanic teenagers at the time, were arrested soon after the assault on 28-year-old Trisha Meili, a white investment banker. The men confessed following lengthy interrogations but later recanted, claiming their admissions were the result of exhaustion and police coercion. The men were eventually exonerated after Matias Reyes, a serial rapist and murderer, confessed in 2002; DNA testing would tie him to the scene. By then, however, all five had served prison terms.

Korey Wise, who at 16 was the oldest at the time of the attack, served 13 years and will receive $12.25 million. The other four – Antron McCray, Kevin Richardson, Raymond Santana and Yusef Salaam – will be paid $7.125 million each, or roughly $1 million for each year of imprisonment.

Call for Inquiry into Death at Morton Hall IRC Diane Taylor , Guardian

The family of a 26-year-old man who died at an immigration detention centre have called for an urgent independent inquiry saying they have concerns about the circumstances surrounding his death. Rubel Ahmed, from Bangladesh, died on Friday night at Morton Hall in Lincolnshire. Fellow detainees say he had been complaining of chest pains for more than an hour but had not received the help he needed. The family say the Home Office subsequently told them he had killed himself.

Ahmed's cousin Ajmal Ali, who lives in Britain, said the family, many of whom live in Bangladesh, were "shocked and devastated" by his death. "Rubel was an incredibly shy, quiet and reserved person, he always helped everyone. He was a very good hearted young man and it was a pleasure and an honour to know him. Most of his family live in Bangladesh and it is an absolutely devastating loss for all of them." He said the family had only heard about the death after a fellow detainee at Morton Hall contacted Ahmed's solicitor several hours later on Saturday morning. "When we found out what had happened we were frantically phoning round. The detention centre said they couldn't tell us anything and told us to call the Home Office press office but that was closed so we had to leave a message. Everyone was so unhelpful. The Home Office have told us that he committed suicide but we don't believe he would have taken his own life. He was looking forward to seeing family members in a few days' time."

Several detainees on the same wing as Ahmed reported he had been complaining of chest pains since about 9.30pm on Friday. A spokeswoman for East Midlands ambulance service NHS trust said it received a call from Morton Hall just after 11.30pm on Friday reporting a patient who was not breathing. "We dispatched a fast-response vehicle and double-crewed ambulance. The patient was pronounced dead at the scene." Akhter Sohel, 26, Ahmed's friend and fellow detainee, said: "Our doors had been locked for the night but Rubel kept complaining of chest pains, and was banging and kicking the door asking for help for the pains. He was banging and kicking the door for more than an hour. I don't think they helped him because he continued banging and kicking the door for a long time. He was a lovely guy, very friendly and chatty. I'm surprised to hear he killed himself." Sohel said police were called after the death but denied reports that there had been a disturbance at the centre.

Ahmed's solicitor, Sarwar Khan, criticised the Home Office for failing to notify the family more quickly and backed calls for an independent investigation. "I had made a recent bail application for Rubel so I know that the Home Office had all the next of kin details on the file," he said. "When I first spoke to the Home Office's command and control team yesterday they didn't want to give me any information at all … We really need some answers and we're calling for an independent inquiry into what happened. When I last spoke to Rubel everything was fine. I was in regular touch with him and he was at no apparent risk of self-harm and appeared to be in good health."

In a statement the immigration minister James Brokenshire said: "Our thoughts are with the family at this very sad time. Deaths in removal centres are rare but tragic events. We take our responsibilities towards detainees' health and welfare extremely seriously. As is the case with any death in detention a full investigation has been launched." A Home Office spokesperson said it was its policy to contact the next of kin as soon as possible, adding: "The Home Office family liaison officer is in contact with Mr Ahmed's family and an investigation will now take place."

Inquest Into Death of Steven Davison in HMP YOI Glen Parva

Opened Monday 8th September at Leicester Coroner's Court. Steven Davisondied on 29 September 2013 whilst a prisoner at HMP YOI Glen Parva, aged 21. He was highly vulnerable with a history of serious mental health issues and had recently spent time in a psychiatric hospital. Steven was remanded in custody on 13 June 2013. This was his first time in prison. He was monitored on the ACCT procedure from 14 June 2013 until 6 August 2013. Following a further incident of self harm and a distressing telephone call, his level of risk was not reviewed and he was found hanging in his cell on the afternoon of 29 September 2013.

Steven's Inquest is the first Inquest to take place since the Chief Inspector of Prisons report following the unannounced inspection of HMP YOI Glen Parva 31 March to 14 April 2014 took place. The critical report was published August 2014 and noted that the number of Assessment, Care and Custody and Teamwork (ACCT) case management documents opened for prisoners at risk of suicide or self harm had increased by 32% over the last year at HMP YOI Glen Parva and was high. The report also noted the self inflicted death of another young man two months following this unannounced inspect. There have been a total of 8 self inflicted deaths of young people at HMP YOI Glen Parva since 2010.

Steven's family hope that the Inquest will be able to address the serious questions and concerns that they have about the care and treatment Steven received from HMP YOI Glen Parva in the period before his death, including the adequacy of the prison's response and management of Steven's risk and mental health needs. · The training of disciplinary and health staff in respect of suicide and self harm prevention procedures at the prison · The monitoring of Steven on the day of his deat · The adequacy of the prison's response when Steven was found hanging in his cell.

Lynda and Jeffery Davison, Steven's parents said: "All we wanted was for Steven to be looked after. We are hoping the Inquest will finally give us some answers as to our questions"

Deborah Coles, co-director of INQUEST said: "That Steven is one of eight young people to have taken their own lives in Glen Parva raises serious concerns about the way the prison manages vulnerable people in their own care. Questions must also be asked about what action has been taken by the prison in response to previous deaths and recommendations."

INQUEST has been working with the family of Steven Davison since 14 October 2013. The family is represented by INQUEST Lawyers Group members Fiona Borrill of Lester Morrill Solicitors and barrister Jude Bunting of Doughty Street Chambers.

properly supervised or accountable. Living conditions in the segregation unit were poor and the routine offered to prisoners meagre. Staff supervision, however, was good with high levels of care, although the failure to use this strength to improve care and reintegration planning was a missed opportunity. The quality of accommodation varied greatly depending on its age and we saw cells in poor condition on the older wings. Too many cells held two prisoners when they should have held one. The quality of relationships between staff and prisoners was excellent and consultation with prisoners was good; both were real strengths of the institution. The exception was consultation supporting the promotion of equality, which despite a comprehensive strategy on paper, had lapsed in recent years. Minority groups within the prison reported less favourably in our survey, although this did not include the small number of young adults, who although mixed with the adult population were more positive about their experiences. We found just under a third of prisoners locked in their cell during the working day. At any point in time, half the prisoner population

Human Rights Legislation in the UK - Whys and Wherefores

Ever wondered what the difference is between the human rights convention and the Human Rights Act? This may help - Human rights will be a major issue in the forthcoming general election. The Labour party has just begun a political campaign, albeit one with remarkably ill-defined aims ("a Labour vision for human rights", "ensure they remain at the heart of Labour's policy and practice", and so on). The Conservatives recently sacked their well-respected attorney general, apparently because Dominic Grieve advised against the policy they are planning to announce at their party conference in October. And one of their justice ministers has said that Britain "should think of leaving the [human rights] convention if we can't get a satisfactory arrangement" with the court that enforces it. Some people find the issues confusing. So what follows is a simplified cut-out-and-keep guide.

What's the difference between the human rights convention and the Human Rights Act? The European convention on human rights is a treaty: an international agreement. It was ratified by the United Kingdom in 1951 and entered into force in 1953. It has been signed by all 47 member states of the Council of Europe. The Human Rights Act was passed by the British parliament in 1998 and entered into force two years later. It includes almost all the provisions, or "articles", in the convention, allowing judges to apply them in the courts of United Kingdom.

Why is there an act as well as a convention? To begin with, the convention was not much use to individuals who wanted to complain that governments had not respected their human rights. Council of Europe member states did not agree to set up a human rights court until 1959. The British government waited until 1966 before allowing individuals to bring cases against itself in the new court. And courts in the UK could not apply the convention themselves until the Human Rights Act took effect in 2000. Until then, people seeking to enforce their human rights had to complain to the court in Strasbourg, a process that lasted years.

What does the Human Rights Act say? There are two important provisions. The first says that other acts of parliament must be read and given effect in a way that is compatible with the human rights convention, "so far as it is possible to do so". If it is not possible for senior judges to "read down" other legislation in this way, then all that the courts can do is to say so. The other important provision says that a UK court deciding a human rights case "must take into account" any relevant decision of the human rights court.

What happens if a court in the UK finds that other legislation is not compatible with the convention? It is for parliament to decide whether to change the law. Special fast-track proce-

no other reason than that it might provide ammunition to critics of his proposals." The judicial review challenge is the latest attempt by lawyers to reverse deep cuts to legal aid. There have been court boycotts and mass protests outside parliament.

A skeleton argument submitted by James Eadie QC, for the lord chancellor, insisted "there was a long and wide-ranging consultation process", involving two published consultation papers, public meetings, and extended discussions with the Law Society. The points at issue "were plain to all consultees", Eadie said. The research papers in dispute – including a financial modelling exercise – addressed matters on which lawyers had been asked to comment. "The lord chancellor ultimately made a decision – which is not challenged on its merits – to adopt measures to encourage market consolidation. The precise details … were decided by reference to a broad evidence base. The evidence and arguments put forward by the claimants suggest that disclosure would not have led to any points being made that the lord chancellor had not already considered." The case continues. Judgment is likely to be reserved.

At a separate event on Monday, the lord chief justice, Lord Thomas, lent his support to the Law Society's campaign to improve access to justice. Addressing a meeting at the organisation's headquarters in London, Thomas said: "The next two years are going to be extremely tough in terms of financial expenditure. I would see access to justice as a campaign to try and persuade people that justice matters. "... There's a need to ensure that lawyers are properly paid to attract the right people. We need to show how money spent early helps but also show we are innovative. You have a real fight on your hands but a fight is always a nice thing to have when the cause is just and justice is a just cause." Andrew Caplen, president of the Law Society, said: "There needs to be a debate about access to justice, wider than just the responsibility of government. Up to 600,000 people have lost the ability to access civil legal aid. Without access to justice we are all the poorer. A great responsibility falls upon the government but it also falls upon the general public as well."

Report on an Unannounced Inspection of HMP Chelmsford

A medium sized local prison holding just under 730 prisoners, a small number of whom are young adults. Most prisoners in our survey reported that they felt safe and the atmosphere in the prison was settled and calm. Arrangements to receive new prisoners into the establishment were adequate if slow. The first night centre held existing and problematic prisoners, which was a potential distraction when managing the risks associated with new arrivals. First night accommodation was in a poor condition and we were not assured that all new prisoners received a first night assessment.

Recorded levels of violence were higher than we expected but were reducing, and incidents of violence were generally minor. Initiatives to reduce violence and bullying were effective and the very small number of vulnerable prisoners held in the prison told us they felt safe. Of more concern, tragically since our last inspection three years ago, seven prisoners had taken their own lives and there remained high levels of self-harm. Recommendations following inquiries into these deaths were being implemented and monitored, and in general, arrangements to support those at risk of self-harm were reasonable.

Security procedures were generally proportionate to the risks the prison faced, but evidence suggested that illicit drug usage was relatively high. The clinical management of substance misuse and interventions to reduce demand were sophisticated and comprehensive. Use of force had reduced since we last visited but remained high, if mostly minor. However, we were not assured that all uses of special accommodation or planned interventions with force were

Northern Ireland Police Must Hand Over Files

Police Ombudsman Dr Michael Maguire had been pursuing legal action against the PSNI in an attempt to force it to hand over files as part of his investigations. He claimed that the legislation his organisation worked under meant the police had to hand over any file requested as part of the ombudsman's investigations. Some of the information the watchdog requested is believed to have related to informers. The ombudsman said the inability to access files had stalled his probes into allegations and complaints against the police in 60 murder investigations.

Increase in Children Taken Into Care

Children are more likely to be put into care because of factors such as abuse and neglect. It has been found that children who are placed in care are more likely to suffer from mental health issues and difficulties in social situations. As more children are being put into care, it is essential to establish why this figure has risen. The Children and Family Court Advocacy Service (CAFCASS) has suggested that this figure has risen because local authorities are working more effectively to remove children from dangerous homes. Another explanation that has been given is the 'Baby P effect', with local authorities wanting to be seen to act and to protect their reputations.

Mary Beedle, specialist child care Solicitor, Swain & Co, says, "Although it is good that local authorities are taking more action for the safety of children, it is also important to be aware of the effects of being over cautious. Early removal could help a child, however being overly cautious and placing children into care without appropriate evidence could lead to more disastrous effects. There is evidence of an increase in the numbers of children who are placed into care but are later given back to the parents as the parents are still able to effectively look after the child if they are given the right support. What needs to happen is for the government to create more support facilities that parents can go to when they are struggling. "

Foreign Nationals Refused Open Conditions *House of Commons / 4 Sep 2014 :Column 317W*

Philip Davies: To ask the Secretary of State for Justice how many and what proportion of prisoners who were liable for deportation (a) applied for and (b) were refused Category D prison status in each of the last five years.

Andrew Selous: Prisoners liable to any type of enforcement proceedings are risk assessed very carefully to ensure they are suitable for open conditions. On 13 August 2014 we amended the Prison and YOI Rules so that prisoners who have a Deportation Order served against them and have exhausted their rights of appeal from within the UK can no longer be moved to open conditions or considered for temporary release. Prisoners who have not yet been served with a Deportation Order, but are being considered by the Home Office for removal from the UK, are now subject to a more rigorous assessment before being considered for open conditions or temporary release to ensure that they are of very low risk of absconding.

IPCC Investigate Man Blinding Himself in Mansfield Police Cell

"The police watchdog is to investigate the care given to a man in custody who blinded himself in a police cell. The man was being held at Mansfield station following his arrest in the town in July. He was then taken to hospital with self-inflicted facial injures that left him blind in one eye. The case has been referred to the Independent Police Complaints Commission (IPCC) after a complaint from the man's family." Nottinghamshire Police said the force would cooperate fully with the investigation.

Prisoners: Per Capita Costs

Philip Davies: To ask the Secretary of State for Justice what the average direct resource expenditure cost per prisoner in (a) male young offenders institutions and (b) male adult prisons was for the latest period for which figures are available. [206956]

Andrew Selous: The Department routinely publishes average costs per prisoner and prison place, based on actual net resource expenditure for each private and public sector prison and in summary form for the whole of the prison estate in England and Wales on an annual basis after the end of each financial year. This includes a breakdown of these costs by prison category and individual prison within each category.

The most recently published figures are for financial year 2012-13 which give an annual Direct cost per prisoner of £38,990 for male young offenders institutions (YOI) and £24,541 for male adult prisons for public and private prisons. This is the latest information available. Prisons are classified according to their major use as at 31st March 2013. YOIs include those with major use offenders up to age 21; adult prisons are those with major use over age 21. Direct costs are those accounted for at each prison cost centre and exclude expenditure met at regional or national level. *House of Commons / 4 Sep 2014 :Column 317W*

Race Hate Convicts Sent Explosives From Inside Prison *Telegraph, 04/09/14*

A murderer and a robber who sent crude explosive devices from the segregation unit of a top security jail to Asian solicitors as part of a race-hate campaign have had their prison sentences increased. Bret Atkins, 24, and Jamie Snow, 27, smirked and laughed as a judge at Leeds Crown Court was told how they constructed basic incendiary devices made from crushed match heads in their cells at Full Sutton prison, near York, and sent them to law firms in Halifax and Nottingham. Despite Atkins and Snow appearing by videolink from different prisons - Whitemoor and Wakefield - the two managed to exchange smiles with each other as details of their racist messages were read to the court. Atkins - who is serving a life term with a minimum term of 20 years for murdering a man in Hull in 2009 - grinned even though his barrister told the judge he had converted to Islam since arriving at Whitemoor.

Judge Rodney Jameson handed down a seven year prison sentence to Atkins, who was found guilty by a jury earlier this year of conspiracy to send an explosive substance with intent to burn. The judge ordered this to start 18 months before the end of his current 20 year minimum term and said this would have the effect of increasing the minimum term of his life sentence to 22 years. Snow, who is originally from Leeds, was serving an eight-and-a-half year sentence for robbery, attempted robbery and possessing a firearm with intent when he sent the letters. He was given an extended sentence of six years and three months after admitting offences of sending an explosive substance with intent to burn and making threats to kill. The judge said the extended part of the sentence meant he will be on licence five years after he is released.

Devices were sent by the pair but, the court heard, they were intercepted before they reached their intended targets. The judge was told that both men had a "shared racial hatred" of Asian people and had threatened to kill Asian prisoners, attack the imam at Full Sutton and burn down mosques. As well as the incendiary devices, Snow sent threatening letters to solicitors - one including an illustration of how to make a bomb using a light bulb.

Jonathan Sandiford, prosecuting, said Snow wrote a letter to a probation officer referring to Asian people as "dirty disgusting vermin". Prison officers intercepted a letter sent to Rahman Ravelli solicitors in Halifax from Snow in November 2012 and found a device inside made

throughout the House and the public outside will be deeply concerned that in 2013 more than 1,000 people were given a non-custodial sentence despite having 100 previous convictions, while 30,000 offenders were given a non-custodial sentence despite having committed 30 or more previous offences. Should not more consideration be given to residents, particularly in deprived neighbourhoods, who have to put up with persistent and repeat offenders in their communities?

Chris Grayling: I agree with the hon. Gentleman. That is why we have brought forward a number of the measures in the Criminal Justice and Courts Bill, which is now in the other place. I hope that it will reach the statute book by the end of the year, and that it will deliver much-needed change.

Andrew Bridgen (Con): Does the Secretary of State agree that sustained and meaningful employment is very important in reducing high reoffending rates?

Chris Grayling: I absolutely agree, which is why I think that a combination of the efforts that this Government are putting into that—the work being done to increase the number of employment opportunities within prisons; the work being done by the Work programme to help the long-term unemployed, particularly those who have been offenders; and, indeed, this Government's great success in creating a fast-improving labour market—are all contributing to tackling the problem to which he rightly refers. *House of Commons / 9 Sep 2014 : Column 746*

Chris Grayling Used 'bluff And Bully' Tactics to Push Legal Aid Cuts *Owen Bowcott*

Justice secretary, Chris Grayling, relied on "bluff and bully" tactics to drive through legal aid cuts that will close hundreds of law firms, the high court has heard. At the opening of a judicial review challenge brought by criminal solicitors, Grayling was accused of coordinating a "caricature of fairness" in a Ministry of Justice (MoJ) review. The changes being introduced provide for cuts of 17.5% in criminal court fees and reduce the number of duty solicitor contracts for attending police stations and courts in England and Wales from 1,600 to 525.

The case has been brought by the London Criminal Courts Solicitors' Association and the Criminal Law Solicitors' Association, which say the consultation was unlawful. As lord chancellor, Grayling is named as the defendant in the hearing. Appearing for the solicitors, Jason Coppel QC said the changes "put the criminal justice system at risk". "It's not based on any research," he said. "The very likely consequence is that hundreds of small firms will go out of business. In large areas of the country [people] will not have access to a solicitor and the quality of the service will suffer."

The challenge is focused on the adequacy of the MoJ's consultation process, crucial details of which, it is alleged, were withheld from the legal profession at the time. "Now that we have seen the research from [the accountancy firm] KPMG on which decisions are based," Coppel said, "it highlights the injustice of not disclosing that research. Some of this was deeply unfair and nothing less than an insult to those in criminal legal aid firms who stand to lose their livelihoods." The lord chancellor himself, Coppel added, "got personally involved in this process and … caused much of the unfairness in these decisions … The claimants have a right to expect procedural fairness. What they got was a caricature of fairness: empty assurances, bluff and bully, divide and rule, fronted by a senior member of the government."

Evidence contrary to the MoJ's aims was suppressed, the court was told. The Law Society, which represents all solicitors in England and Wales, was "manipulated" into agreeing to the changes, Coppel said, after it was threatened with alternative savings that the MoJ "had already decided not to do". He added: "The lord chancellor personally misled [criminal solicitors] about the matter of the independent research which had been commissioned to assist him to make decisions. He personally refused to disclose that research, it would seem, for

the types of crimes committed and the seriousness of the offence.

We are committed to making sure sentencers have robust community options at their disposal. We are working with partners in Greater Manchester on a pathfinder aimed at providing sentencers with robust and effective sentencing options in the community that may divert women from custody, where appropriate. Learning from the pathfinder will inform a new operating model for working differently with women in the criminal justice system. We have also legislated to make sure that the needs of female offenders are addressed under our Transforming Rehabilitation reforms. Companies bidding for contracts will be expected to demonstrate an effective approach to the identification and recognition of women's needs, as well as protected characteristics, to make sure that individual needs are properly addressed. They will be held to account to deliver these services in their contracts. With the Advisory Board on Female Offenders, we have produced guidance for new providers on working with female offenders.

Open Prisons - Absconders

Andrew Griffiths: What assessment he has made of the effectiveness of open prisons.

Under-Secretary of State for Justice (Andrew Selous): Open prisons are subject to inspection by Her Majesty's inspectorate to measure performance in four key areas: resettlement, purposeful activity, safety and respect. Alongside this, the Ministry of Justice operates an internal audit assurance mechanism. Open prisons are subject to audit in the same way as the rest of the prison estate and are awarded a rating based on assurance against national baselines. HMIP and internal audit outcomes are combined with scores from other performance measures to give an overall performance rating on the prison rating system. All open prisons are currently rated as 4, which is exceptional, or 3, meeting targets.

Andrew Griffiths: I thank the Minister for that response, but Sudbury prison is neither effective nor meeting its targets. The local newspaper recently ran a story with the mugshots of 24 prisoners who were still on the run from Sudbury prison. We recently had four prisoners absconding in five days and two have disappeared in the last month. My constituents are concerned for their safety. This is not working; what is the Minister going to do about it?

Andrew Selous: I recognise my hon. Friend's concern, but let me give him some helpful facts. The list of 24 Sudbury prisoners unlawfully at large that was recently published by Derbyshire police includes cases from 1992 onwards, with half occurring before 2006. Absconds have reduced by 80% in the last 10 years, and this Government have recently made significant changes to the way prisoners are assessed for eligibility for open prisons and to receive relief on temporary licence. *House of Commons / 9 Sep 2014 : Column 755*

Criminal Convictions Recidivistic Offenders

Graham Jones (Lab): What estimate he has made of the number of offenders given a non-custodial sentence in the past three years who had more than 100 previous convictions.

Chris Grayling: There are far too many people in that situation. I am clear that there must be tough penalties for serious or repeat offences. More people are going to prison and for longer under this Government. The basis of the hon. Gentleman's question is precisely why I am taking steps in the Criminal Justice and Courts Bill to ensure that we toughen up the system of cautions so that they are no longer available for serious or repeat crimes. We have also taken steps to ensure that all community penalties contain a punitive element.

Graham Jones: I thank the Secretary of State for that answer, but I am sure that Members

from crushed match heads and a striking device attacked to the opening flap. When confronted about it, Snow said "two out of three is not bad", according to Mr Sandiford. The prosecutor said he was "claiming he'd already sent another two". Mr Sandiford said Snow sent a threatening letter to another law firm, signing it "your neighbourhood Muslim-killer".

He said prison officers heard Atkins bragging in phone calls that he and Snow were vying to kill the prison imam, saying: "Me and Snowy have got a deal - whoever gets to him first can have an ounce of amber leaf (tobacco)." The court heard Atkins sent a letter to Carrington's Solicitors, in Nottingham, containing another incendiary device but it was intercepted. The message included the sign-off: "Ha, ha, ha, boom. I've got my eyes on you."

Mr Sandiford said the pair also conducted a dirty protect in the segregation wing of Full Sutton when they daubed threats against Muslims on the walls of their cells in excrement. But Philippa Eastwood, defending Atkins, said: "He had converted to Islam since he has been at HMP Whitemoor and has been a practising Muslim in the time since he had been there." Snow - through his barrister Richard Simons - tried to get the judge to increase his sentence to more than seven years so he could get access to a mental health course in prison to address his personality disorder and other potential psychiatric problems. But Judge Jameson said he could not take this unusual course.

The judge told the pair it was unlikely the devices they made would have caused any more injury than burns to the hands of anyone who opened them. But he said they "exercised considerable ingenuity in making these potentially dangerous devices out of the materials at your disposal. In both cases, you sent improvised incendiary devices by the mail, or submitted them to be sent by mail, to Asian solicitors in the north of England. No injury was caused by any device that you sent. It is difficult to know the extent of the distress that you caused."

After the hearing, Detective Chief Superintendent Ian Wilson of the north east counter-terrorism unit said: "Bret Atkins and Jamie Snow waged a campaign of hate against innocent people, choosing victims purely on the grounds of their race or religion. They expressed deeply racist and anti-Muslim views and sent a series of threatening letters, designed to instil fear in their recipients. Snow and Atkins took their hatred beyond threats to kill and even tried to post explosive materials in an attempt to cause harm or injury. Thankfully this mail was intercepted by vigilant officers within the prison service and was never able to enter the postal system. Snow and Atkins may already be in prison, but they will still be held accountable. We will continue to work with the prison service to respond to racially-aggravated incidents and punish those who seek to threaten the safety and confidence of our communities."

Marcella Goligher, governor of Full Sutton Prison, said: "We are committed to the prevention of crime and are proud of the work our vigilant and highly-skilled members of staff do to detect it. These convictions have been secured as a result of strong partnerships, and we will continue to work with the police and the CPS to ensure prisoners who break the law are prosecuted."

McConville Murder: IRA Suspect's Lawyer Slams Boston College 'Evidence'

The use of the controversial Boston College tapes to charge a former IRA negotiator with the murder of a mother of 10 has been branded a "complete sham". A lawyer for Ivor Bell demanded that the case against his client should be thrown out. The Crown alleges that Bell is Mr Z on two taped interviews for the Belfast Project in which it is claimed he spoke about the circumstances of how widow Jean McConville was dragged from her children at gunpoint, driven across the Irish border and then murdered. The 1972 disappearance of

McConville resulted in Gerry Adams' arrest earlier this year. The Police Service of Northern Ireland questioned the Sinn Féin president over allegations that he gave the order for the woman to be kidnapped, killed and then buried in secret – a claim Adams has always denied.

Bell, 77, from the Andersonstown district of Belfast, was arrested in March and charged with IRA membership and aiding and abetting the murder. The case against him rests on two interviews given to the Belfast Project. Among those who gave testimony to the project was the late IRA Belfast commander, Brendan Hughes, whose interview included the allegations against Adams. Bell – who is on bail – denies any role in events surrounding the murder, saying he was not even in the city at the time. As the IRA veteran appeared before Belfast magistrates' court on Thursday for an update in the case, his lawyer sought a direction from the Public Prosecution Service to discontinue the case.

Peter Corrigan, defending, claimed the level of disclosure violated an international treaty between the US and the UK. In a scathing attack on the research initiative, he argued that it was unreliable. "Boston College carried out no safeguards in relation to obtaining the interviews. At first instance the court must be satisfied that the evidence has been lawfully obtained. It's our case that the Boston College project was a complete sham."

District Judge Fiona Bagnall indicated that the defence application should wait until full papers were served. Adjourning proceedings until 30 October, Judge Bagnall said: "I would urge the prosecution to endeavour to prepare this case as quickly as possible."

Whistle blower's Diary: Lying Pandas & Dodgy Crime Stats *James Patrick, Justice Gap*

I have never trusted Pandas. They look way too sad to not be found hanging on a much more regular basis; that leaves us with the other, frankly much more worrying, truth behind them: they are accomplished liars. Behind those big, sad eyes, is plain old mischief, as so clearly proven last week by the Panda who 'pretended to be pregnant' in order to get more food. This little bugger didn't even look up and to the left as it duped the world…though this does beg a question: how did the park keepers communicate with it? Did it start knitting baby booties and shouting at people, then crying while shovelling chocolate-coated gherkins down its throat? Did it sit and pat its tummy and regale them with tales about how much its grapes were killing it? These are important questions, and yet no one has answered them.

Obviously, it's not only endangered species that are full of shit. The British Crime Survey has been shown to be the biggest load of codswallop since, well, police recorded crime: it turns out that the survey underestimates crime by around a half, by just ignoring it… like the police. Marion FitzGerald, visiting professor of criminology at the University of Kent, argued that claims of ever-falling crime were misleading because the crime survey excluded card fraud. Professor FitzGerald told The Times: 'Ministers were readily persuaded that the crime survey represented a "gold standard" for measuring crime when it started to show a continuous fall from the time Labour took office in 1997.

As patterns of crime have changed over the last 20 years or more, the crime survey failed to track these changes and so it has continued to tell a story which is music to ministers' ears.' Statisticians said that the plastic card fraud figures were not included 'due to conceptual difficulties with assigning victimisation'.

Pandas do not have conceptual difficulties, they just lie. I'm not going to say anything more about this, in this column, other than: I Told You So. So, there we have it…Pandas are lying little turds and the British Crime Survey isn't even fit for use as their bog roll.

Extradition to a State With an Irreducible Life Sentence Breach of Article 3

In ECtHR Chamber judgment in the case of Trabelsi v. Belgium (application no. 140/10), 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, and a violation of Article 34 (right of individual application).

The case concerned the extradition, which has been effected despite the indication of an interim measure by the European Court of Human Rights (Rule 39 of the Rules of Court), of a Tunisian national from Belgium to the United States, where he is being prosecuted on charges of terrorist offences and is liable to life imprisonment.

Article 3 (with regard to the applicant's extradition to the United States)

The Court firstly reiterated that the imposition of a sentence of life imprisonment on an adult offender was not in itself prohibited by any Article of the Convention, provided that it was not disproportionate. On the other hand, if it was to be compatible with Article 3 such a sentence should not be irreducible de jure and de facto. In order to assess this requirement the Court had to ascertain whether a life prisoner could be said to have any "prospect of release" and whether national law afforded the "possibility of review" of a life sentence with a view to its commutation, remission, termination or the conditional release of the prisoner2. Moreover, the prisoner had to be informed of the terms and conditions of this review possibility at the outset of his sentence.

The Court then observed that Article 3 implied an obligation on Contracting States not to remove a person to a State where he or she would run the real risk of being subjected to prohibited ill treatment. In matters of removal of aliens, the Court affirmed that, in accordance with the preventive aim of Article 3, this risk had to be assessed before the persons concerned actually suffered a penalty or treatment of a level of severity proscribed by this provision, which meant, in the present case, before Mr Trabelsi's possible conviction in the United States. In the present case the Court considered that in view of the gravity of the terrorist offences with which Mr Trabelsi stood charged and the fact that a sentence could only be imposed after the trial court had taken into consideration all relevant mitigating and aggravating factors, a discretionary life sentence would not be grossly disproportionate.

The Court held, however, that the US authorities had at no point provided any concrete assurance that Mr Trabelsi would be spared an irreducible life sentence. It also noted that, over and above the assurances provided, while US legislation provided various possibilities for reducing life sentences (including the Presidential pardon system), which gave Mr Trabelsi some "prospect of release", it did not lay down any procedure amounting to a mechanism for reviewing such sentences for the purposes of Article 3. Therefore, the life imprisonment to which Mr Trabelsi might be sentenced could not be described as reducible, which meant that his extradition to the United States had amounted to a violation of Article 3.

Sentencing: Females *House of Commons / 8 Sep 2014 : Column 426W*

Simon Hughes: Sentencing decisions are entirely a matter for the independent judiciary. When considering the appropriate sentence, the judge will take into consideration a number of factors, including the seriousness of the offence and the impact that the crime has had on the victim. All courts must follow guidelines issued by the independent Sentencing Council. The judge will take into account any mitigation which might include personal circumstances, expressions of remorse and a guilty plea. While the sentencing framework and guidelines apply equally to everyone, any differences in sentencing outcomes may therefore occur for a number of reasons, including