provide and, where appropriate, involvement of the family in plans for release.

Justice Minister Andrew Selous said it was "crucial that offenders have the right support in place when they are released". He said reforms to rehabilitation will see greater support for offenders, including those on short sentences who currently get no statutory supervision on release and have the highest re-offending rates. He said the government was "creating a nationwide network of resettlement prisons that will mean, for the first time, the vast majority of offenders will be held and released into the area where they will live and be supervised". Mr Selous added: "I strongly believe that families have an important role to play in helping offenders turn their backs on crime, and these reforms will be crucial in enabling families to play their full role in the resettlement process."

**Justice Minister Plans Network of Mental Health Centres in Prisons** *Alan Travis, Guardian*

Chris Grayling has ordered justice ministry officials to start work on developing a network of specialist mental health centres within prisons in England and Wales. The justice secretary says he wants to "really get to grips with the challenge of mental health in prisons" soon after next year's general election. "I want every prisoner who needs it to have access to the best possible treatment. I want mental health to be the priority for our system," he said in a speech on Monday to the Centre for Crime and Social Justice in London. The Prison Reform Trust has said 15% of men and 25% of women in prison report symptoms indicative of psychosis, compared with a rate of 4% among the general public. Nearly two-thirds of prisoners are believed to have a personality disorder, and the suicide rate has been up to 15 times that in the general population.

Grayling said too many people with mental health problems were found in prisons in England and Wales. "Within most prisons you will find people suffering from acute mental health problems, often in isolation units, often needing round the clock supervision." He said there was already some excellent work going on with the NHS to develop better approaches to working with prisoners with personality disorders. "But I think it is time to provide a more specialist focus in dealing with mental health problems in our prison estate. So I have asked my officials to begin work on options to have specialist mental health centres within the prison estate. I have also agreed with the secretary of state for health that our two teams will work with NHS England to ensure that any prisoner who needs to can have mental health treatment equivalent to the best they would receive in the community."

Grayling said a national system of liaison and diversion services was being built which would mean the mental health condition of an offender could be identified during the court process and a decision taken at that stage on where to detain him. The justice secretary's pledge to make the mental health of prisoners a priority in the next parliament came as the chief inspectors of prisons and probation published a joint report warning that his rehabilitation reforms

**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,

**Miscarriages of JusticeUK (MOJUK)**
**22 Berners St, Birmingham B19 2DR**
**Tele: 0121- 507 0844 Email: mojuk@mojuk.org.uk Web: www.mojuk.org.uk**

# MOJUK: Newsletter 'Inside Out' No 495 (18/09/2014)

**Martin McCauley: 'Grave Misconduct by Police' as Offence Quashed** *BBC News*

The Court of Appeal has given detailed reasons why a conviction of one of the so-called Colombia Three for a weapons offence was quashed. Martin McCauley was seriously wounded and a teenager killed when police opened fire on a County Armagh hayshed in 1982. After the so-called shoot-to-kill incident, he was convicted of possession of three rifles found inside the shed. In May the conviction was ruled unsafe. The Court of Appeal in Belfast has been examining the conviction for which McCauley received a two-year suspended jail sentence. Police claimed McCauley confronted them with a rifle at the hayshed 32 years ago during the incident. He was seriously injured and Michael Tighe, 17, was killed when Royal Ulster Constabulary (RUC) officers opened fire. McAuley had insisted he and Michael Tighe had not been armed and that the police opened fire without warning.

*Eavesdropping operation:* An investigation by the Northern Ireland Criminal Cases Review Commission (CCRC) found that there was an eavesdropping operation at the hayshed before and during the shooting. Its existence was discovered by the former Deputy Chief Constable of Greater Manchester Police, Sir John Stalker, as part of his investigation into allegations that the Royal Ulster Constabulary (RUC) was operating a shoot to kill policy. Tape recordings revealed that no warnings were shouted by the officers before they opened fire. The CCRC also found a memo from an officer who said that he had learnt that the RUC officers had exceeded their orders and shot the men without giving them a chance to surrender.

The CCRC found that although the Department of Public Prosecutions (DPP) was aware of the eavesdropping operation, they were not told about the recordings. A meeting between the deputy head of special branch and the DPP, suggests that he deliberately misled them by concealing the operation. He then had the tapes and logs destroyed because of the embarrassment they might cause.

*Consideration by the Court of Appeal:* Martin McCauley submitted that his prosecution and conviction constituted an abuse of process and the Court of Appeal should find his conviction unsafe. The Lord Chief Justice, Sir Declan Morgan, said there were a number of questions to be considered when deciding if Martin McCauley's trial was unfair. "It is not possible now to determine what was recorded in relation to the events immediately after the shooting but the misconduct of the police in deliberately destroying this source of evidence deprived the appellant of the opportunity to examine the product of the device for the purpose of assisting his defence on that issue. In those circumstances the deliberate destruction of the first tape and the withholding of the copy tape by the Security Service in our view rendered the appellant's trial unfair. On that ground alone, the conviction is unsafe."

"Grave misconduct": Justice Morgan added that this was a case where the police officers involved in the shooting lied to the investigating team when providing their original statements, at the direction of senior officers. The tape, which was relevant evidence, was deliberately destroyed and the Lord Chief Justice said that it was "at least arguable that this amounted to a perversion of the course of justice," The Lord Chief Justice said that the failure of the Security Service to disclose the tape and to provide it to the prosecution was "reprehensible". In our view these matters amounted cumulatively to grave misconduct. In considering the balance it is at least some mitigation that the police officers did not attempt to stand over their initial untrue account by the time they came to give evidence," he said.

For the reasons already given we consider that the appellant was prejudiced."

**Serious Failings: Death Of Steven Davison HMP YOI Glen Parva**

Leicester Coroner's Court, Leicester, Before Assistant Coroner Martin Gotheridge : A jury has concluded that Steven Davison died on 29th September 2013 whilst the balance of his mind was disturbed. The jury recorded that Steven's individual needs, risks and vulnerabilities were not properly assessed, understood or recorded between 25 and 29th September in line with the ACCT process. The jury was also critical of the lack of continuity in Steven's care, that information was not passed on to the appropriate individuals, that the frequency and recording of observations was inadequate and that there was a failure to allocate Steven to a safer cell (a cell with no ligature points) which would have protected him and kept him safe.

Steve Davison was 21 years old when he was remanded to HMP YOI Glen Parva on 13 June 2013, for possession of an offensive weapon which he threatened to use cut his own throat. This was his first time in prison. Steven had a long history of mental health issues, self harm and suicide attempts. He entered the prison system with a self harm and suicide warning form highlighting his risks. The initial assessing nurse did not consider Steven to be at risk of self harm or suicide despite this information. It emerged during the inquest that the nurse had not been trained in the Assessment, Care in Custody and Teamwork (ACCT) procedures (a system used for prisoners at risk of self harm) at the time and that she had only received the training in August 2014 by which time she had worked at the prison for 2 years. The following day staff realised Steven's vulnerabilities and began the ACCT process which remained in place until 6th August 2013. Steven always spoke openly of his suicidal ideations and self harm. He regularly spoke of the support he received from his girlfriend. Staff accepted Steven's assurances that he would not take his own life in prison and placed an over reliance on his presentation despite the known risk factors.

On 25th September 2013 Steven self harmed by burning his arm with a cigarette lighter. An ACCT was opened. On the same day Steven's girlfriend ended their relationship and he was also informed that his grandfather had died. Despite both these serious occurrences coming immediately after the incident of self harm; an ACCT case review was not carried out. On 28th September there was a further occurrence of self harm and Steven was treated for cuts to his legs. His low mood was noted and he became increasingly withdrawn. An ACCT review was still not carried out. No change was made to the level or frequency of observations. On 29th September Steven made a short telephone call to his mother and then returned to his cell. He should have been checked at least every 30 minutes but this did not happen. Steven was discovered by staff hanging in his cell some 45 minutes after he had been locked in his cell.

Recent HM Inspectorate of Prisons report on HMP YOI Glen Parva has been highly critical deeming the prison unsafe and unfit for purpose. It notes that there are still weaknesses in the ACCT monitoring arrangements and that some young men are not getting the support they needed. Mr Gutheridge confirmed that he intends to make a Regulation 28 report which will be addressed not only to the prison but also to the National Offenders Management Service.

Lynda Davison, Steven's mother said: "Steven was let down by mental health services before he even arrived at Glen Parva. He was let down again in Glen Parva. I just wanted Glen Parva to look after him. I was pleased that Governor Clarke admitted in evidence that there were 'clear failings and clear missed opportunities', but it is too late for Steven."

Deborah Coles of INQUEST said: "Steven should never have been sent to Glen Parva when he was in fact in need of professional support for his mental health issues. He was a demonstrably vulnerable young man whose complex mental health needs could not be met by the prison system. The fact of another death of an 18 year old shortly after Steven's death



ous enquiries before they were put in contact with a Family Liaison Officer from the Home Office to confirm Mr Ahmed's death. The family were reliant on reports from other detainees at Morton Hall IRC and were informed that Mr Ahmed was calling for medical assistance prior to his death. Mr Ahmed's family are still uncertain about the cause of his death.

Mr Ahmed's Family have issued the following statement: "We the family are shocked and distressed by the way the detention centre treated us immediately after the death. They refused to tell us whether Rubel had died after we received information from other detainees. We were simply given the telephone number for a press office which was not being answered on the weekend. They were unsympathetic and unhelpful despite desperate pleas for any information. Investigations have begun and the family call upon investigators to carry out a full, fearless and thorough investigation. We are concerned that all detainees who are witnesses should be contacted to provide their accounts. We have grave concerns that Rubel's desperate cries for medical assistance were not answered and that he was deprived of basic human rights to receive care when he clearly needed it. We call upon the investigators to fully explore events and get to the truth."

Deborah Coles, INQUEST Co-Director said: "The grief of this family has been compounded by the insensitive way in which they were treated after his death and the lack of timely and accurate information in direct contravention of the Family Liaison Principles. It is vital for both the family and wider public interest that this death is subjected to thorough scrutiny and that those in detention can effectively participate. The plight of those held in immigration detention and the systemic neglect of detainees' mental and physical ill health is evidenced by the high numbers of deaths, suicide attempts and self harm."

INQUEST is working with the family of Mr Ahmed and his lawyer, ILG member Nogah Ofer of Bhatt Murphy Solicitors and the families of another 8 detainees who have died in IRC and prisons holding immigration detainees. Mr Ahmed's family have asked that their privacy be respected at this difficult time and that they will not be providing any further statements or interviews at this stage of the investigation process.

**Most Freed Prisoners 'Lacking Home and Job'** *BBC News*

Only one in six of prisoners in England and Wales have both somewhere to live and a job or training arranged when they are released, inspectors suggest. A joint inspection into resettlement provision for adult prisoners followed 80 offenders when they left prison. Chief Inspector of Prisons Nick Hardwick said it found the role of a prisoner's family in their resettlement was being overlooked. It was carried out by Ofsted and the prisons and probation inspectorates. The inspection said family relationships were too often seen as a matter of "visits which could be reduced or increased according to an offender's behaviour". Only 16% of the prisoners were found to have had lined up both employment or training and somewhere to live on the day they were released.

The inspection found more than half returned home or moved in with family or friends when they were released. But the few who had arranged a job had been helped by previous employers, family or friends, inspectors said. Speaking on behalf of all the inspectorates, Mr Hardwick said the report "absolutely confirms the central importance of an offender's family and friends to their successful rehabilitation. Sometimes an offender's family may be the victims of their crime and sometimes they may be a negative influence," he said. However, overwhelmingly, this inspection confirmed our view that an offender's family are the most effective resettlement agency. Where possible resettlement work should include helping the offender and his or her family maintain or rebuild relationships, an assessment of the support a family is able and willing to

dict as well. Finally, it is worth noting that for lawyers there are numerous points of interest outside the elements necessary to prove murder:

The advocacy by prosecution counsel was old fashioned and aggressive. It is perfectly possible to take a witness to pieces without shouting and the attack dog approach clearly backfired as it exposed the defendant's vulnerabilities rather than the issues. There are toolkits on dealing with vulnerable witnesses available at www.theadvocatesgateway.org. My view is that these should now receive global recognition. The cost of the defence seems to have been remarkably high if reports that the defendant sold his house to pay the fees. The need to provide a bespoke service for all defendants, not just the rich ones is an issue that needs to be confronted so that anyone can have the service of a quality advocate regardless of the charges.

The jury system is a much better option than a single judge. Provided cases are properly presented, it avoids individual attacks on judges and keeps the community in the system. The debate between 12 people in a jury room gives a far more satisfying verdict than a legal judgement which has to be delivered like a complex exam paper. Of course, juries need more information than they currently have. Some selection is a good idea and the use of full technology in court is long overdue. That South Africa removed this system is a great sadness. Nor is an inquisitorial system the answer since advocates can ask the questions based on proper case theory rather than fishing for possibilities. The current trend to restrict jury knowledge is unnecessary. Most miscarriages of justice arise from what the jury didn't know rather than what was explained. I'm told even the ICC have referred to 'Mr Google'. The source of the evidence goes to weight not finality. The real changes necessary in the modern world is to trust juries with much more information to make sure they have the tools to make the right decision – with global communication this has got to be possible – even in South Africa.

The real winner seems to be the televising of a trial. Most cases are never reported. Those that are usually suffer from reported comment. To see pretty much the whole thing was compelling and informative. A Bailey judge in the UK always explains that the criminal justice system belongs to the public and where the jury are not involved; at least here there was the live TV.

My view? Assuming the judge heard all the available evidence and we don't hear that some further error was made or matter left undisclosed, justice was done and seen to be done. It may or may not be the truth, but on the available evidence, the important standard of proving serious criminal charges beyond a reasonable doubt was maintained. In addition, South African householders were sent a message not to respond to intruders with firearms and overbearing boyfriends ought to understand that they will be put on trial for violence, even if they are famous.

The system in any country is a human system. It is fallible but we should at least welcome that a dignified and intelligent black woman judge was appointed and had the courage to make tough decisions in a terrible case. South Africa's continuing gun crime woes have been exposed and Oscar Pistorius clearly needs therapy. With time and effort these can be fixed. Nothing can bring back Reeva Steenkamp and my last thought is for her Mum.

**Transparency and Accuracy of Information for Families of Those Who Die in Custody**

On 5th September 2014, Rubel Ahmed, a 26 year old immigration detainee from Bangladesh was pronounced dead at Morton Hall Immigration Removal Centre. Mr Ahmed was detained at Morton Hall IRC for approximately two months. There was a significant delay in Mr Ahmed's family being informed of his death. His family report that they were given very little information from officials and that they were initially referred to the press office. The family had to make numer-



in Glen Parva reinforces concerns of the way the prison manages the care and needs of vulnerable young people. It is clear that the prison has failed to act on recommendations following previous deaths. The Inspectorate of Prisons' latest report found Glen Parva to be unsafe and unfit for purpose. Ministers must be held to account for their collective failure to act in response to previous deaths and the fact that young people continue to die".

Fiona Borrill, solicitor representing Steven's family said: "This is a highly critical conclusion to another inquest into the death of a mentally ill young man in prison which could and should have been avoided. Shocking evidence has been given as to the poor and inadequate implementation of the ACCT process which must be urgently addressed locally at Glen Parva but nationally too as tragically Steven's death is not an isolated case."

INQUEST has been working with the family of Steven Davison since 7 May 2014. The family is represented by INQUEST Lawyers Group members Fiona Borrill of Lester Morrill Solicitors and barrister Jude Bunting of Doughty Street Chambers.

**Prison Suicides Rise by 64% in a Year** *Alan Travis, The Guardian*

Call for overhaul of prevention procedures in English and Welsh jails after 'troubling' surge in self-inflicted deaths: There are too many cases of prisons failing to identify inmates who are a suicide risk despite the presence of clear warning signs, an official watchdog has warned after a "troubling" 64% rise in self-inflicted deaths behind bars in the past year. Nigel Newcomen, the prisons and probation ombudsman, who is required to investigate every death in custody, said he could not definitively explain the rise in prison suicides to 90 deaths in 2013-14. But he said the jail system in England and Wales was "undeniably facing enormous challenges" including overstretched prison staff and it was time for the prison service's 10-year-old procedures for preventing suicides to be overhauled.

In his annual report the ombudsman said he started investigations into 239 deaths in prisons, immigration centres and probation hostels last year – a rise of 25% over the previous year. He said most of the deaths – 130 – were from natural causes and their rise was explained by the fact that the over-60s were the fastest-growing segment of the prison population. Jails designed to hold young men were having to adjust to unexpected roles as secure care homes and even hospices.

But he says the rise in self-inflicted deaths from 55 to 90 in the past year, and the doubling in the number of murders behind bars from two to four, was troubling. He said the deaths partly reflected the level of mental illness in prison and a rising toll of despair among some prisoners. "We cannot offer a definitive explanation for the increase, but the case studies and learning lessons material provided in this annual report illustrate that some sadly familiar issues continue to recur. For example, there have been too many instances of prisons failing to adequately identify the risk of suicide posed by prisoners, despite clear warning signs being present. Even when risk of suicide was identified, monitoring arrangements and case reviews were too often inadequate." The ombudsman said suggestions prison staff were so stretched that they could no longer provide adequate care for vulnerable prisoners remained anecdotal, while every day staff saved prisoners from themselves. "Nevertheless the prison system is undeniably facing enormous challenges," he said adding that his investigations disclosed repeated examples of implementation of proper suicide watch procedures.

This week the justice secretary, Chris Grayling, challenged over the sharp rise in prison suicides, said he took the issue seriously. "We saw a rise in numbers earlier in the year; we saw a fall in numbers across the summer," he said. We may see a rise or a fall in the future.

These things are difficult to track. We work very hard to tackle what is a real problem."

**Kingsley Burrell: Deaths in Police Custody [Parliamentary Debate]**

House of Commons / Westminister Hall / 10 Sep 2014 : Column 336WH

*Mrs Anne Main* (in the Chair): We now come to the debate in the name of Shabana Mahmood on the subject of deaths in police custody. I understand that during her debate, the hon. Lady intends to refer principally to the case of Kingsley Burrell. An inquest is due to take place into Mr Burrell's death early next year. For that reason, I expect hon. Members who speak or intervene in this debate to take care not to make any remarks which could be construed as assigning blame for Mr Burrell's death or as expressing opinions on other matters concerning his death which will be decided by that inquest. That is on the legal advice of the Clerks.

*Shabana Mahmood* (Birmingham, Ladywood) (Lab): It is a pleasure to serve under your chairmanship, Mrs Main. I am grateful for that guidance, which I also received from the Clerks in the Table Office earlier today. I confirm that it is my intention to talk about my constituent's case, but to do so in a way that takes account of the fact that there will be a coroner's inquest early next year. I am grateful to have secured the debate and for the opportunity to highlight the very important issues of concern to my constituents and to one family in particular, whose case I have been working on for some months.

Deaths in police custody are an issue of growing concern, both in this House and across the country, and the matter has been raised several times in the House recently. In particular, there has been a recent focus on deaths in custody in which the deceased had a mental health illness that was not dealt with properly, either by officers or by NHS staff. I understand that the Home Affairs Committee is currently looking at that issue and took evidence on it last week. However, as I said, I will focus on the case of my constituent, Kingsley Burrell, which raises other issues in relation to deaths in custody that show shocking procedural failures, which add to the pain that is suffered by families of the deceased and contribute to an erosion of trust between the community and the police.

The facts of Mr Burrell's death, as the Independent Police Complaints Commission found, are that on 27 March 2011, emergency services were called to a reported firearms incident in Ladywood in my constituency. They ascertained that the complainant was Kingsley Burrell and also found that a firearms incident had not occurred. Mr Burrell allegedly displayed symptoms of mental health illness and was therefore detained and sent to the Oleaster mental health unit. He was later transferred to the Mary Seacole mental health unit in Winson Green, again in my constituency. On 30 March, staff at that unit called police and reported an incident, after which Mr Burrell was restrained and taken to A and E, where he received treatment, but on 31 March, he was pronounced dead.

Those mysterious and tragic circumstances are difficult enough for Mr Burrell's family to cope with, but the aftermath has placed significant stress on the family, and the way in which this case and others very similar to it have progressed since the deaths occurred is completely unacceptable. It adds to the suffering of these families and I believe has a wider impact on police and community relations.

Kingsley's mum, Janet Brown, told me about some of her experiences in the aftermath of her son's death. She told me that the IPCC investigation into the conduct of the officers took far too long. She also told me that it was a year before the IPCC asked Dorset police to look into the actions of the NHS staff involved in Kingsley's care. Both police and NHS staff had had contact with Kingsley in the lead-up to his death, and although the IPCC began immediately investigating the officers, it was a further year before anybody looked into the conduct of the NHS staff.

There was also a delay in receiving Kingsley's body for burial. The family had to wait 18



nally ill children, a controversial move that sparked heated public debate and protest. The Netherlands allows euthanasia for children aged 12 and over, while Belgium has lifted all restrictions.

**Oscar Pistorius Verdict: was it a Miscarriage of Justice?** *Felicity Gerry QC, The Justice Gap*

Violence against women is a global concern. The issue took centre stage as Oscar Pistorius was tried for the murder of his girlfriend a beautiful young model on the verge of a fabulous career. Unfortunately, due to past troubles arising from the apartheid era, South Africa no longer has a jury system (see here). The verdicts were delivered by a single judge who had the assistance of lay assessors. The world was watching as judge Masipa delivered a reasoned judgement setting out her findings in fact and law.

It was a fantastic advert for court TV, but more of that later. In determining guilt or innocence, the judge sensibly started with the defendant's account, recognising that, as in most murder trials, the only person alive who really knows what happened is the defendant. Pistorius was a poor witness who gave inconsistent evidence but lies cannot prove guilt. Many innocent men lie for all sorts of reasons, especially when on trial for grave allegations. The law recognises this.

Murder must be proved beyond a reasonable doubt and here the prosecution case was based on screams, lights and noises that could not give her a concrete timeline. The fact that Oscar Pistorius picked up a loaded gun and used it is not, in law, the end of the matter. The prosecution have to prove those physical elements. They also have to prove mens rea – that is the state of mind of the defendant at the time of the killing. For premeditated murder (charged as count one), the prosecution had to prove intent. An intention can be inferred from all the circumstances. This includes the fact that Oscar Pistorius took a pistol, loaded with expanding bullets and pulled the trigger four times.

However, it is all the evidence that needs to be considered and Oscar Pistroius is an emotional character. This expressed itself in overbearing and selfish behaviour towards the deceased during their relationship. She wrote Whats App messages that he scared her sometimes. Many men frighten their partners. The figures on domestic violence are appalling but not every violent partner is a killer and here, the judge was satisfied that the distress shown by Oscar Pistorius at the scene was genuine.

Not enough facts: Pistorius told the first witnesses on the scene that he believed he had shot an intruder. The judge took the view that such a reaction was almost impossible to fake. She accepted his explanation that he reacted impulsively as a 'fight rather than flight' person. Fighting in law does not necessarily denote intent. In the judge's view there were 'simply not enough facts' to prove murder. She was however satisfied that his actions in taking up a gun rather than alerting security were unreasonable. This means that the prosecution had proved he was not acting in self-defence or defence of others or property.

She recognised his vulnerabilities as a person with disabilities but noted that many people are vulnerable and, even in South Africa where tensions run high, this does not justify an immediate armed reaction. She found Oscar Pistorius guilty of culpable homicide and he will be sentenced on October 13. She also delivered mixed verdicts in various firearms charges but it is the homicide that has caused such outrage. Social media commentary suggests individuals largely disagree with her verdict. Ultimately the disputes on twitter tend to show why there was a reasonable doubt as there are differences of opinions over the facts of what happened and the judge was bound to deliver a verdict based on those inconsistencies. Even a jury would have found it difficult to be sure. It is rare to find such a distressed defendant and my guess is a jury may well have reached the alternative ver-

suicide attempt, die. The top line is suicide; the real cause is inadequate supervision. Attacks on prison officers have gone up too, in this new-style prison estate where everyone is brutalised by poor conditions. But the suffering among POs when they lose prisoners unnecessarily, feeling responsible but lacking the power to stop it, is an attack in itself, one that goes unrecorded.

This is what prisons look like when the political rhetoric is all about the victim, and the criminal is relevant only insofar as he or she is seen to get their just deserts. Even if your worldview can't compute a prisoner as a victim of anything, and sees his or her rights to justice as completely waived by the committal of any crime, however petty, you would nevertheless be able to see that prisoners aren't rehabilitated in these conditions. Education, therapy, exercise, work: all these things take staff. If you're trying to care for 150 inmates with one member of staff, they will by necessity spend most of their day in a cell, 22,000 of them sharing cells designed to hold just one prisoner. But even that argument – that this policy has the opposite of its desired affect, and will neither prevent future victimisation nor save money – is secondary. Because the problem is not a government that is bad at governing, though clearly that's not ideal. The problem is a government that can write off some of its citizens as beneath its care. It's a dangerous cruelty with implications far beyond the prison walls.

**Marlene Bonello - Sad Demise of Campaigning Mother**

Michael O'Brien, one of the Cardiff Newsagent Three, has paid tribute to his mother, Marlene Bonello, the most fervent of all those who campaigned to free him, who has died aged 73. O'Brien, Ellis Sherwood and Darren Hall had their convictions quashed in 1999, for the 1987 murder of Phillip Saunders. "It affected her terribly," Michael said. "She had no knowledge of the law. There were no campaign groups in those days to help. My mum campaigned everywhere. She was outside Cardiff Prison with a megaphone. She went to students' union to campaign. I wouldn't have my freedom if it wasn't for my mum. She was incredible."

**Belgium Grants Murderer's Request for Mercy Killing** *Telegraph*

Frank Van Den Bleeken, who has spent the past 30 years in prison for repeated rape convictions and a rape-murder, has for years requested that the state help him end his life due to "unbearable psychic suffering," said Jos Vander Velpen. Van Den Bleeken is to be transferred from his prison in Bruges to a hospital within the next few days where he will be euthanised. Belgium legalised euthanasia in 2002, the second country in the world to do so after the Netherlands, and logged a record 1,807 cases of euthanasia in 2013. Its strict conditions for a mercy killing include that patients must be capable, conscious and have presented a "voluntary, considered and repeated" request to die.

Vander Velpen said his client met all legal conditions, and for the past four years had felt he "couldn't stand to live like this any longer and could no longer accept the pain". "I am a human being, and regardless of what I've done, I remain a human being. So, yes, give me euthanasia," Van Den Bleeken said. Van Den Bleeken, considering himself a menace to society, had refused to be considered for early parole, but found the conditions of his detention inhumane. He had requested a transfer to a specialised psychiatric centre in the Netherlands for treatment or, failing that, a mercy killing. Belgian authorities denied the transfer request earlier this year.

A source close to the case said Van Den Bleeken had been informed that a new centre providing appropriate psychiatric care would open later this year in Belgium. But the convict, who in 30 years left prison only once – to attend his mother's funeral – opted to pursue euthanasia, for which he had already received medical approval. A justice ministry spokesman on Monday confirmed the decision. In February, Belgium became the second country to authorise mercy killing of termi-



months before the IPCC instructed the pathologist to take samples from Kingsley's body. Janet also told me that the IPCC did not want to include in its investigation Kingsley's own accounts of what took place when he was placed in the Mary Seacole unit in Winson Green. He had been logging his experiences in a diary and the IPCC's initial reaction was that that evidence would not be included in its investigation. The family had to meet them and insist that the commissioner, Rachel Cerfontyne, insert that information into her investigation report.

It took the IPCC a year and four months to complete its investigation into the conduct of the officers who had contact with Kingsley in the lead-up to his death. The Dorset police force, which did not come on to the scene until a year after Kingsley had died—as I have said—took a year and nine months before they reported into the actions of NHS staff who had had contact with him in the lead-up to his death. The file was passed to the Crown Prosecution Service in October 2013, and it was only a couple of months ago that the CPS made the decision not to prosecute any of the officers, NHS staff or other individuals who had had contact with Kingsley in the lead-up to his death. Only now do we have a preliminary inquest hearing coming up—next month—into Kingsley's case, and the full inquest will begin in 2015, nearly four years after he died.

As far as I can tell, it does not get much more serious for the police than when somebody dies in their custody, on their watch, or very soon after coming into contact with them, but the very clear lack of a process when a death in custody occurs and the inordinate length of time that it take to investigate these matters implies—to me, my constituents, and in particular, the Burrell family—a casual and complacent attitude towards deeply serious issues of concern to the whole community, as well as to the deceased's family. It is also deeply disrespectful. There seems to be no empathy in this whole process, or any recognition that these people are grieving, and there is no thought given to how one of us might feel if we were in the shoes of Kingsley's family or those of other families who have suffered in a similar way.

*Rehman Chishti* (Gillingham and Rainham) (Con): I congratulate the hon. Lady on bringing the matter forward for debate. She talks about other families; Colin Holt, a constituent of mine who suffered from schizophrenia, died as a result of how he was restrained by the police. Officers in that case were prosecuted but acquitted at Maidstone Crown court, where the judge, Mr Justice Singh, said—

*Mrs Anne Main:* Order. I ask the hon. Gentleman to return to his seat. He is making a speech, not an intervention—it should be an intervention and a question to the Member whose debate it is. We should have the courtesy of allowing the hon. Lady the time to speak.

*Shabana Mahmood:* I am pleased that the hon. Gentleman had the opportunity to put his constituent's case on the record. Restraint methods are an issue in cases involving deaths in police custody. My focus is particularly on the way in which these investigations take place and the amount of time that it takes to conduct them.

If the process got results, answered the questions that families have and ensured that the lessons that need to be learnt are, in fact, learnt, I suppose one could tolerate the fact that sometimes the investigation takes a very long time. But that is demonstrably not the case in the vast majority of cases involving deaths in police custody. The process takes far, far too long and it often leaves families with more questions and much greater pain. That is not something that any of us should continue to accept.

The impact on the wider community is also very profound. Contentious deaths in police custody include an ever-increasing number of people with mental health illnesses, and a disproportionately large number of people from black and minority ethnic backgrounds—and,

sometimes, people from BME backgrounds with mental health issues. If those cases are not seen to be taken seriously and investigations are not seen to be conducted with due seriousness and as quickly as possible, trust in the system erodes seriously, breeding justifiable anger and resentment, and it is incumbent on all of us to do whatever we can to address that.

Sometimes it does not seem that deaths in police custody are treated as cases in which potentially a crime has been committed. The starting point should always be that we simply do not know what has happened, so all possible scenarios are on the table, but many families report that that is not how it feels to them. In practice, it feels as though a judgment has already been made and an end result is already in mind, long before the investigation has begun.

Despite the more than 900 deaths in police custody and several verdicts of unlawful killing, there has yet to be a single successful prosecution—a point that the hon. Member for Gillingham and Rainham (Rehman Chishti) also raised—of any police officer involved in those deaths. Again, that does not create much confidence in the wider public that the system is robust enough to ensure that when things go seriously wrong, as they do in many of these cases, we will get proper answers and accountability. It is the lack of accountability that bothers so many of my constituents, and it is the potential for lack of accountability that is keeping Janet Brown and her family awake at night. They fear that their questions will never be answered and someone will never be held to account for the death of Kingsley Burrell.

There are other issues in relation to deaths in police custody. People would expect sensitive and thorough handling of the investigation in the immediate aftermath of a death—the so-called golden hours, which are critical to evidence gathering and setting the direction and quality of the investigation that is to follow. Again, many families report that that does not happen in practice.

The independent charity INQUEST also tells us of particular problems in relation to IPCC material and disclosure, including ahead of inquest hearings. For a bereaved family trying to engage in an IPCC investigation, the organisation's reluctance to provide early and full disclosure or to explain clearly, in language that ordinary people can understand—not lawyer-speak—why they cannot provide that evidence at the early stages of investigations, and when they expect to do so, fosters mistrust and is alienating and deeply unhelpful. Families often feel that they are not kept up to date and involved in the progress of the investigations. Of those who felt that they were kept involved and informed, many reported dissatisfaction because the information given to them was inadequate, difficult to obtain or delayed.

It seems to me that we have an ad hoc and chaotic system for investigations into deaths in police custody. There is no agreed method or structure and no checklist of what needs to happen and when. We need a uniform approach that allows professional judgment to be exercised on a case-by-case basis, but always in the context of a coherent and consistent national protocol for the structure of the relationship between investigating officials and the bereaved, and clear guidelines about the time frames that need to apply. That is the only way we can give the families who suffer in this way some confidence that they will at least understand the system and the process that is supposed to apply, and that they can hold to account the individuals involved.

I have mentioned the IPCC, and I believe that it has lost the confidence of the public and is not fit for purpose. It should be abolished and replaced by a new police standards authority, whose job it would be to take action and raise standards when policing goes wrong. Such an authority should be tasked with creating the national set of guidelines or protocols that should apply to the investigation of deaths in police custody, so that we can ensure that everyone knows what is meant to happen and when.



reported to the police if required. We continue to work hard to understand the reasons for the increase in assaults, including sexual assaults. A comprehensive review of the management of violence, including sexual violence, in prisons was under way and a new approach to investigating such crimes was being developed with the police and crown prosecutors."

**Prisoner Suicides: Dire Cost of Tory Tough-Guy Posturing on Crime** *Zoe Williams*

I have disagreed with him more strongly, but I have never felt so philosophically different from David Cameron as when he said the idea of prisoners voting made him "physically ill". I'm pretty sure it's a political confection, the visceral hatred of criminals this government exhibits. It doesn't indicate any serious reflection on who is actually in prison, what happens to them during their sentence, or what it will take for society to reabsorb them when they're released. It's there to establish their credentials as men – tough, morally certain and on the side of right. It's crude and trivial minded, yet its consequences are showing in the most profound events. Ken Clarke made genuine efforts to reduce prison numbers; professionals said at the time that it was the first time in years they'd had a justice secretary who understood the prison estate and what it needed. Clearly that was a PR disaster for the Conservatives, for whom "understanding" is a dirty word;.

As a direct result of his policies and tough-guy posturing, the number of prisoners increases every week. It even went up in August, which is unheard of because courts are on holiday. Suicides have gone up by 64%. Everybody knows what causes suicides in prison. Too many inmates have mental health problems and shouldn't even be in prison in the first place. Had the sentencing magistrate been better trained, or simply more sensitive, they would have been handed a community sentence and stood a chance of getting the healthcare they needed (though, considering the underfunding of mental health services, not a very strong chance). However, that has long been the case. The recent change to explain this spike is overcrowding and understaffing. Wandsworth prison four years ago was a huge success story of modern jailcraft – it had a flagship education system, award-winning sex offender rehabilitation programmes and responsive, highly trained prison officers. In 2010 it had 427 officers; this June it had 260, to manage 1,634 prisoners. Four men have killed themselves since the beginning of the year. Frances Crook, from the Howard League charity, calculated by the Ministry of Justice's own data that Grayling had cut staff by a third since he took over. The average local prison now has one officer for every 150 prisoners.

One appalling detail is that all deaths have shot up, even deaths from illness. Heart attacks that needn't be fatal are, because there aren't the staffing levels to get people to hospital in time. The NHS has contracts to deliver healthcare to inmates; these are impossible to fulfil, because no staff are available to get the prisoners to the hospital. Another consequence of this is highlighted in the Howard League's report, out today, Coercive Sex in Prisons. Men who are raped in prison have nowhere to turn. They can't call specialist services, because their only permitted phone calls are to pre-agreed numbers. Healthcare is probably the only avenue of support, and they are not able to access it. Instead, sexual abuse goes unreported. Victims have to carry on sharing a cell with their rapists. Tolerating the sexual abuse of prisoners is no different to tolerating the abuse of anyone else. It doesn't do anything to help the rates of self-harm and suicide.

It would be instructive for Grayling to go into a prison in the days after a suicide, or on the day of the funeral. The staff are destroyed by these events. This is not a story about callousness or lack of professionalism; there is no great divide of loyalty between those in custody and their custodians. There are simply not enough people to do this job adequately. So inmates such as , 18 years old, who arrived at Glen Parva young offenders institute with welts round his neck from a previous

the thousand or so words of the statutory measure governing the subject into a statement of fifty or so words will always carry the risk of the statement being apt to mislead.

**Sexual Abuse in Prison Needs Urgent Investigation** *Alan Travis, The Guardian, 15/09/14*

Penal reformers say there is an urgent need to determine the nature and scale of sexual abuse in prisons in England and Wales in the wake of estimates that hundreds of inmates are being raped or sexually assaulted every year. The figures come from the commission on sex in prison set up by the Howard League for Penal Reform, which says that survey evidence from prison inspectors estimate that 1% of prisoners are sexually abused by other inmates or staff. This implies that between 850 and 1,650 prisoners could be victims of sexual attacks every year. Ministry of Justice data shows that the number of officially recorded sexual assaults in prison is now at its highest level since at least 2005, with 170 recorded in 2013 – up from 113 the previous year. However, the real figure is believed to be much higher and the problem has been described by the prisons ombudsman as "a hidden issue in a hidden world". Recent research in the US, where the problem is taken more seriously, shows a high level of under-reporting.

The commission, which is made up of former prison governors, academics and health experts, has found there is only very limited research on sexual abuse in jails in England and Wales and that much sexual violence goes under-reported, so the nature and full extent of the problem is not known. The commission was blocked by the justice ministry from interviewing serving prisoners, but ex-inmates told them that the prevailing "hyper-masculine and homophobic" culture on the main wings of most male prisons made it very difficult to report assaults.

One former inmate called John told the commission: "People who are sexually assaulted or raped in prison are very unlikely to say anything because they are too scared, have been traumatised and will be bullied and victimised if they do so. Especially in YOIs [young offender institutions] where there are many, many jails that do not have VP [vulnerable prisoner] wings in order to keep vulnerable prisoners safe." The commission was told that some prisoners traded sex for tobacco or other contraband items such as drugs or alcohol. Others used sex to settle transactions or debts with prisoners when they have no other means of paying.

Another former inmate, James, wrote in evidence to the commission: "In the past three months I have witnessed a prisoner grooming and coercing at least two prisoners into sex and buying them things in the canteen or knowing there [sic] low on tobacco, bulk buying and then saying to the person who is low on the item if you do me sexual favours then I'll give you some tobacco." Another, William, said coercion existed: "Offers of tobacco in exchange for quick sexual gratification does occur and is sometimes taken up by those in need. Sometimes sexual abuse also occurs."

The commission's briefing on the issue says that official investigations into sexual assaults can be slow and the police are not routinely notified about allegations of abuse. Chris Sheffield, commission chair, said: "There is an urgent need to determine the nature and scale of sexual abuse in prisons in England and Wales. The issue is treated seriously in the US, where the government has taken major steps to recognise the problem and prevent abuse. "Despite the limited research available here, what findings we do have suggest there are disturbing parallels between the experiences of prisoners in the US and prisoners in England and Wales."

Prisons minister, Andrew Selous, however, insisted that sexual relations between prisoners were not common place: "We do not condone sex in prisons or believe that prisoners in a relationship should share a cell. Reported incidents of sexual assault in prison are rare," he said.

"Where an alleged sexual assault is reported or discovered it will be investigated and



At this point, however, we still have the IPCC. I know that the Government have started their own review and it would be helpful if the Minister, when he responds to my remarks, could set out exactly what is planned for that review. But whoever ultimately has responsibility for these investigations—whether the IPCC, as now, or another organisation—its key task in the aftermath of a contentious death following police contact must be to begin immediately an independent, effective, accountable, prompt, public and inclusive investigation, so that the rule of law is seen to be upheld and applied equally to all citizens, including those in police uniform.

Young constituents of mine made this point to me only today when I was doing an interview on a local community radio station. They said, “Sometimes it feels that if you wear a uniform, you are above the law. You are there to enforce the law and to keep us all safe, but you should not be above it.” They make a fair point. It sometimes feels as if officers are not held properly to account. That relates not only to the potential for successful prosecutions and convictions but to the sense that if misconduct occurs, it will be challenged.

So often in relation to these cases, we say, “Lessons must be learned,” and we imply that lessons will in fact be learned. However, in my experience the lessons are not learned, because the cases of deaths in police custody that keep occurring all seem to follow the same pattern, and the same mistakes are often repeated. The families involved all report the same things going wrong in the investigations.

The experience of the Burrell family and the amount of time that it took for the investigations to conclude is very similar to that of other families who have suffered in similar circumstances. That says to me that the phrase “lessons must be learned” means nothing. Lessons are not learned, and it is about time that we started to get that right. If people are not held accountable, if there are no prosecutions and if there are no grounds for misconduct charges, at the very least we must fix the processes that apply when someone dies in these circumstances, given that we know there is a problem with them. That is one way in which we can start to give people confidence in the system again.

A few weeks ago, Janet Brown said to me that she has not yet grieved for her son and she will not do so until all her questions about his death have been answered and until she feels at peace that she has done everything she can to get justice for him. I think that making good, decent people wait so long and placing them at the mercy of a very chaotic system is a scar on our collective conscience. I really hope that the Minister, when he responds, can give Janet, the Burrell family and me some confidence that the Government understand not only the policy implications of these cases, but the emotional impact that they have, and that he and the Government will do something about it.

*Minister for Policing, Criminal Justice and Victims (Mike Penning)*: It is a pleasure to serve under your chairmanship, Mrs Main, even though it is obviously enormously sad that the hon. Member for Birmingham, Ladywood (Shabana Mahmood) has had to bring—quite rightly, in her opinion, and probably in mine—this case to Westminster Hall this afternoon.

Let me say at the outset that any death, whether or not in custody, is regrettable, and a death in custody is enormously regrettable. It must be enormously traumatic for the Burrell family, and I fully appreciate the hon. Lady’s concerns. However, I cannot agree with many of her comments, because I think that she has almost predetermined what will be in the report from the IPCC, which has not yet even been released. I know that you, Mrs Main, said that we had to be careful in talking about the ongoing case, which is going to go before the coroner’s court for the inquest. The IPCC report is not out yet. That is the independent—I stress, independent—report.

There are some areas where I do agree, so let us do the bits that I do not agree with first and then we can move on. I do not recognise, as a constituency MP, the view of the IPCC

and police as being above the law. I have patrolled with the police for more than 20 years, in many different capacities, and one of the things that I have found is this. There are, clearly, bad people within the police and bad people within our community. It is our job to make sure that we get them out of the police; they should not have got there in the first place in many cases. But the vast majority of the police—I want to put this on the record—99.9% of the police in this country, do a fantastic job for us, keeping us safe, not just in this place but in our homes and our businesses throughout the country.

This is an enormously difficult subject. The hon. Lady used quite emotive language in her speech, and I partially understand why, but not fully. May I touch, before I make progress with some other things, on the question of deaths in custody of people from the black and ethnic minority community? When I first thought about deaths in custody, my first thought was that that meant people who were being held by police in custody cells, but that is not always what happens. It is important to put on record that a death in custody occurs where the police have come into contact with somebody, even briefly, who has subsequently died. The IPCC will immediately become involved in such cases. The cases are sometimes enormously complex, much more so than I understand, although I am not as close to the case as the hon. Lady is. The way in which the news is communicated to families and loved ones is critical, and that is something that I am interested in looking at. I will come on to the IPCC review in a moment.

I will return to the hon. Lady's comments about deaths in custody, particularly regarding people from the black and ethnic minority community. The IPCC did a 10-year study on deaths in custody between 1989 and 2008-09, and it found that 22 of those who died during that period were black. The view expressed in the report, which is a public document, is that that was in line, sadly, with the ethnic make-up of the detainee population. In 2010-11, there were, overall, 20 deaths in custody, one of which was sadly of an individual from the black community. In 2013-14, there were a total of 11 deaths in custody; clearly that is still too many, but the number of deaths has nearly halved since 2011. One of those deaths was, in the terminology used by the report—I do not like this terminology—of a mixed-race detainee. I am only using the language that has been given to me by lawyers, and I apologise for it. I am not very politically correct myself.

To recap, in 2010-11, there were 20 deaths in custody; in 2011-12, there were 15; in 2012-13, there were also 15; and in 2013-14, there were 11. I think that the report of this debate will show that the hon. Lady spoke about "growing" deaths in custody, although I may not be using her exact words. I know that black and ethnic minority groups feel that the situation is disproportionate, but the evidence that has been presented to me does not support that view.

*Shabana Mahmood:* I would like to clarify that I said that there was growing concern about deaths in police custody. I was talking not about the number of deaths that occur, but about the over-representation of people with mental health issues and about how trust in the police is being eroded in BME communities.

Mike Penning: I understand the point that the hon. Lady makes, and I will come on to talk about some work that I have been doing with a Minister in the Department of Health on mental illnesses. I repeat that the evidence shows that there were 20 deaths in custody in 2010-11—too many—one of which was of someone from the black community. Of the 15 people who died in 2011-12, one was a black individual and one was from a mixed-race family. In 2012-13, there were 15 deaths, one of which was of someone from a mixed-race family. In 2013-14, one of the 11 people who died was from a mixed-race family. The evidence speaks for itself. I understand how the situation is sometimes perceived, but it is our job as constituency MPs to ensure that our work



it was alleged that Sergeant McMahon told colleagues he'd been warned by Sergeant Ellis that he could find drugs in the locker. In an exchange with a defence solicitor for Sergeant McMahon at the same hearing, Judge Meehan said: "Your client is saying he was told he would find drugs in that locker and the purpose of the exercise was to 'disappear' those drugs from the PSNI; to take them out of the proper legal channels altogether."

Defence lawyers had submitted that as the PSD operation was an internal investigation which the officers were unaware of, they could not be charged with perverting the course of justice. Judge Meehan rejected this argument and all three men were released on bail to be arraigned at Omagh Crown Court on 9 October.

**Law Q & A: Viewing Terrorist Material** *Source: Police Oracle, 15,09,14*

Question: A statement put out by the Metropolitan Police said recently: "The MPS Counter Terrorism Command (SO15) is investigating the contents of the video that was posted online in relation to the alleged murder of James Foley. We would like to remind the public that viewing, downloading or disseminating extremist material within the UK may constitute an offence under Terrorism legislation." Is the simple downloading or viewing of a video online actually an offence under any specific piece of legislation? Would it be likely to lead to a prosecution, in reality?

Answer: In my view, the simple acts of downloading or viewing the material mentioned in the question does not constitute an offence.

Section 57 of the Terrorism Act 2000 makes provision for the possession of articles (which might be documents or records in electronic form (R v Rowe(2007)) but the provision will only be breached if the possession of the article is in circumstances which give rise to reasonable suspicion that his possession is for a purpose connected with the commission, preparation or instigation of acts of terrorism. Section 58 of the Act of 2000 creates an offence of (a) collecting or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism; or (b) possessing a document or record containing information of that kind. Under section 58(2) the term " record" includes a photographic or electronic record. While I have not viewed the video in question in its entirety, I lean to the view that the information imparted in it falls short of satisfying the criteria detailed in the section.

The video which is the subject of the question is certainly a publication for the purposes of Section 2 of the Terrorism Act 2006; but whether it is a "terrorist" publication within the terms of section 2(3) of the Act is another matter altogether. I very much doubt that the video falls within the tight definition provided by section 2(3).

By virtue of section 2(2)(f) of the Act a person might offend against the section if he has a publication in his possession with a view to it becoming the subject of - (a) distribution or ci (b) being given, sold or lent; (c) offered for sale or loan; (d) provided to others to enable them to obtain, read, listen to or look at, or (e) electronic transmission

Apart from the consideration that the video is unlikely to be deemed to be a "terrorist" publication within the terms of section 2(3) of the Act; another crucial issue is that a person will only offend against section 2 if he has the document in his possession within the terms of section 2(2)(a) – (f), above, and (a) intends an effect of his conduct to be a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism; (b) he intends an effect of his conduct to be the provision of assistance in the commission or preparation of acts of terrorism; or (c) is reckless as to whether his conduct has an effect mentioned in (a) and (b), above

The operative word in the Metropolitan Police Statement is " may". Seeking to crystallise

a significant number of convictions for serious offences, including terrorism, firearm and robbery offences. The appellant had previous convictions but all were for relatively minor offences.

The CCRC concluded that the police would have been aware of the persons from whom the information was obtained. The Court of Appeal said it was significant that in a letter dated 21 July 1976 the Law Officers Department indicated to the DPP that the Assistant Chief Constable of the RUC believed that the appellant was innocent. The police assessment was that the information was reliable. These intelligence reports were not disclosed to the DPP or to the defence. The Court said that even if they had been disclosed to the DPP it was unlikely that they would have been disclosed to the defence as the prevailing view at that time was that only matters capable of being given in evidence should be disclosed.

In 1974 and 1975 the common law regulated the disclosure of unused material in criminal cases. Major developments in the nature of the disclosure obligation at common law now mean that fairness ordinarily requires that any material held by the prosecution which weakens its case or strengthens that of the defendant should be disclosed to the defence. In particular, disclosure should be made of the identification of any other persons suspected of involvement in the offending and any interviews carried out by the police with them.

The Crown accepted that applying modern standards of fairness disclosure of the gist of the intelligence reports was required. It was accepted that if the intelligence reports had been disclosed to the DPP it would have required re-examination of the public interest in pursuing the prosecution particularly as disclosure of the gist of the intelligence information may have given rise to issues concerning the safety of the source. The Court of Appeal said that if the disclosure obligation had been recognised it seems unlikely that the prosecution would have been continued. The Court of Appeal considered that there had been a failure of disclosure in this case as a result of which the conviction was unsafe. It allowed the appeal.

**R v Banfield:** Where the Court of Appeal had granted legal aid for advocate only, following a successful renewed application to appeal, it was not lawful for the solicitor to enter into a private funding arrangement with the appellant in order to pay for his services. Such an arrangement fell contrary to the 'topping up' provisions and also the terms of the General Criminal Contract to which the solicitor was a party. The Court revisited earlier authorities, including R v Grant, but was driven to the same conclusion as another court had reached earlier due to a proper construction of the regulations. There were also strong public policy reasons for the ruling.

**Three PSNI Officers Will Stand Trial for Perverting the Course Of Justice**

At Dungannon Magistrates' Court on Friday 11th September, District Judge John Meehan said he was satisfied there was enough evidence to establish a Prima Facie case against police Sergeants Geoffrey Ellis and Harry McMahon, and Constable David Power. Although told they had the right to, all three defendants declined to either give evidence themselves or call witnesses on their behalves. The charges of perverting the course of public justice arise amid allegations surrounding the unauthorised removal of items from a locker in Cookstown police station, which belonged to Sergeant Geoffrey Ellis, between 22 - 25 July, 2012. It is alleged that after discovering it would be searched by the PSNI's Professional Standards Department (PSD), he asked Power, whose address was given as Sprucefield PSNI station, and then McMahon, c/o Dungannon Station, to remove its contents.

At an earlier court hearing when defence lawyers argued the case should be dismissed



is based on evidence rather than perception. It is the job of the police to do the same.

I am a new Minister in the Home Office, and I make the hon. Lady the same offer that my predecessor made: it would be good to meet outside the format of a debate to discuss the issues that she has raised. It is difficult for me to comment on the case, because the inquest will soon come before the coroner's court and because the IPCC has not yet published its report.

There is no doubt that a review is needed into the IPCC's work. That is not a criticism of the commission, but we need to look carefully at the nature of the work that comes before it. As a constituency MP, I regularly see cases where my constituents say, "I would like this case to go to the IPCC," but I often look at the cases and think that they should have been resolved with the constabulary, rather than going to the IPCC. I am looking at guidance on that matter at the moment, and it will form part of the review of what the IPCC should look at. These cases are often complex, as is the case that the hon. Lady has raised. Before anything could happen, it was essential to ensure that any trial was not prejudiced, which is why the Crown Prosecution Service considered the matter before it progressed to an inquest. Of course, the IPCC now needs to report.

I do not believe that the previous Administration thought that the IPCC was flawed or broken and needed tearing up and throwing away, and I do not think that either. Is the IPCC perfect? No, it is not. Do we need to do some work with it? Yes, we do.

Without going into the details of the case that the hon. Lady has raised, there is one area that we need to work on, which has been the poor relation for many years. When I was a fireman in Essex, I used to go to road traffic collisions, which used to be called road traffic accidents. If someone was badly injured in an incident, we would extricate them as quickly as we could, the medics would do their job and the person would be taken to hospital for the treatment that they needed. The simple fact is that if someone has a mental illness, invariably the police will be called and the individual will end up in a cell rather than somewhere where they can get the medical help that they need. Is that the fault of the police? No, because their job is not to diagnose a mental illness but to make sure that the individual and the public are safe.

I was on patrol in Holborn only the other day when we received a call and went out. We thought that we would be dealing with a domestic incident, but the gentleman was having what his family described as an episode. The police did everything in their powers not to arrest him, but to take him to a hospital where he could get the correct treatment. I stress that the correct treatment is important. I have been working with the Department of Health to ensure that in such circumstances, people are not simply taken to an A and E department that does not have the required expertise, in which case they will be back out on the streets again five minutes later.

My view, and the view of the Health Minister with responsibility for the initiative, is that it is crucial that people with mental illnesses are treated as well as those with any other illnesses. People with mental health issues may also have learning difficulties and addictions to alcohol or drugs. The police still have a responsibility, however, not only to try to understand the circumstances of people who are brought before them, but to make sure that they can be taken to trained individuals with the right expertise. There are interesting projects going on at the moment. In Herefordshire, experts in the field such as nurses with mental health experience go out on patrol, particularly on Friday nights. It is important to have that sort of expertise alongside our patrolling police, and it provides a source of knowledge to ensure that the public feel safe.

I think that there is a real problem with the public, as well. The Olympics clearly showed us that public understanding of people with physical disabilities had really moved forward. The Paralympics was a great way of showing the world the wonderful things that people with

long-term conditions and disabilities can do. However, all the evidence suggests that, although people with physical disabilities have seen such benefits, people with mental health issues and learning difficulties have not. We, as politicians, should do everything we can to tackle that.

I would love to have gone into a lot more detail, but with the ongoing investigations into the case, it would have been difficult for me to do so. I have every sympathy with the family. If I was the constituency MP, I would be sitting where the hon. Lady is sitting and asking exactly the sorts of questions that she has asked, but I always stand at the Dispatch Box—or, in this case, in this wonderful room. I just managed to get here in time, even though I went to the usual one first; it is a good job I always turn up early. We are dealing with incredibly complicated issues, which will not be resolved in a half-hour debate. I look forward to meeting with the hon. Lady, and perhaps with the family, to see how we can move forward. Let us first see what we agree on, and then work on the other issues as we go forward.

**New Police Complaints, Same old Police Complaints, so it goes, on and on, ad Infinitum**

"The IPCC ... has lost the confidence of the public ... It should be abolished and replaced by a new police standards authority"? That's what they said about The Police Complaints Authority! (PCA), so they Abolished it, replacing it with the IPCC. I had an eye opening letter (whilst serving time in HMP Wolds) from the IPCC 36 days after it came into being it said:

"Thank you for your letter of 27 April 2004. The Independent Police Complaints commission took over from the Police Complaints Authority on the 1 April 2004. It is an Independent body set up under the Police. Reform Act of 2004 to Increase public confidence in the system for investigating complaints against the Police. It appears from your letter that you have made a previous complaint regarding this matter to the PCA, dared 17 August 1999. Article 4 of the Complaints Commission (Transitional Provisions) Order 2004 states that where a complaint has been recorded under the old system that it cannot be re-opened under the new system. Furthermore, if there has been a failure to record a complaint under the old system there is no right of appeal to the IPCC. We will not be in a position to-re-open your case as your complaint was already made prior to the introduction of the IPCC and therefore falls under old legislation". Yours Sincerely, Kate Lloyd Casework Manager IPCC 06/05/2004

Norman Scarth <againstcorruption@hotmail.co.uk>

**Inmate Hospitalised After Unrest at HMP Holme House** *Northern Echo*

Around eight inmates were involved in an incident at Holme House Prison, Stockton, Teesside around 6:00pm Thursday 11th September. The Ministry of Justice confirmed the situation, but strenuously denied reports that a wing of the prison had been taken over or that a 'tornado team', specially equipped staff trained in quelling outbreaks of violence, had been called to the scene.

A Prison Service spokesperson said: "An incident took place at HMP Holme House earlier this evening. "One prisoner sustained injuries and was taken to an outside hospital. The incident was resolved by prison staff." The spokesperson said the incident was over within an hour. Holme House opened in May 1992 and holds male prisoners aged 18 years and over. The population is mainly comprised of longer sentenced determinate prisoners with a substantial number of remand prisoners, according to the Ministry of Justice website. The prison serves primarily the Tees Valley, South West Durham, East Durham and North Yorkshire.



It has an operational capacity of 1,210 and is comprised of seven self-contained living units with a mixture of single and double cells.

**Francis Newell Conviction for Armed Robbery in 1973 - Quashed**

Francis Newell ("the appellant") was convicted on 22 November 1974 and was sentenced to four years imprisonment. The prosecution case against him had two main strands. The first was the identification of his car and the second was his identification by witnesses. The judge relied very heavily on the evidence of one witness to convict the appellant. He found her to be a reliable witness. The judge rejected the appellant's explanation for the different accounts he gave to the police. He also rejected the alibi evidence put forward for the defence. The appellant appealed against his conviction and sentence and on 13 June 1975 the Court of Appeal dismissed the appeal against conviction and substituted a sentence of eight years imprisonment. His case was referred to the Court of Appeal by the CCRC on 18 July 2013.

The appellant had provided the names of three alibi witnesses a few days after the robbery. All three men gave statements and two gave evidence at the trial. The trial judge rejected the alibi evidence. Material provided to the CCRC however clearly showed that one of the witnesses told police at an early stage that the appellant was with him at the time of the robbery. In an unsigned and undated statement made by a RUC detective it was stated that one of the witnesses, Robert McKee, called at Lisburn RUC with the appellant's brother to collect his car and told the police that he was surprised that the appellant had been arrested as he was with him when the incident occurred. Mr McKee was invited to make a written statement but refused to do so saying he would not do anything before seeing his solicitor the following morning. At trial Mr McKee was specifically cross examined by Crown counsel about his failure to provide alibi evidence to police and he appeared to agree that he had not provided such evidence at that time. He was not questioned on this issue at all by defence counsel. The trial judge questioned him seeking to establish precisely when he had first offered the alibi evidence but the Court of Appeal considered that his apparent failure to offer that evidence at an earlier stage was clearly significant in the judge's decision to reject the evidence of the alibi witnesses.

The undated statement was disclosed to the DPP but the Court noted that it seemed improbable that it was available to Crown counsel as he did not pursue that line of cross-examination. There was also no evidence that it was provided to the defence. The Court of Appeal commented that had it been deployed by the defence there was a real possibility that the judge's concerns about the timing of the provision of the alibi evidence would have been eased and that the alibi evidence would have provided a complete answer to the charge faced by the appellant. The Court of Appeal said it appeared that the initial descriptions of the appellant taken by police from two Post Office employees were not disclosed to the defence. There were material discrepancies in the description which one of the witnesses gave when preparing the photo-fit picture and at the trial and the appearance of the appellant. The appellant was missing a thumb. The second witness was asked about his hands under cross-examination. Her statement, which described his hands in some detail, was not put to her and it was submitted that if it had been disclosed it would have been put to her.

The CCRC investigation established that three intelligence reports in relation to the robbery were received by police prior to the appellant's trial. These identified some of those responsible for the robbery, that the car used was hijacked and that the appellant, the owner of the car, was not involved. It was indicated that the UVF was responsible. One of the intelligence reports suggested that the photo-fit picture was a great likeness of a particular individual. The CCRC looked at the backgrounds of those identified in the reports as having been involved. All had