court disposals framework has developed organically over a number of years and is complex as a result. Any reform must aim to simplify it in order to assist public understanding and reduce bureaucracy. The pilots seek to test a new approach which gives officers and staff the discretion to deal with cases appropriately. It will engage the victim in the process and require offenders to take responsibility for their actions."

Under the new two tier system, the community resolution punishment will be aimed at dealing with minor offences by first-time offenders. It will allow victims to have a say in how they want an offender to be dealt with. It could involve delivering a verbal or written apology to the victim or making reparations – possibly fixing any damage caused or paying compensation. The suspended prosecution, for more serious offending, will allow the police to attach conditions. It will result in an offender receiving a fine or being required to attend a rehabilitation course.

Report on an Unannounced Inspection of HMP Wakefield

HMP Wakefield is one of eight high security prisons in England and holds 750 men, many of whom are serious sex offenders. Approximately 70% of the population are life or indeterminate sentence prisoners, a small number of whom are unlikely ever to be released. HMP Wakefield is a high risk institution where the need to ensure the protection of the public, the need to provide safe, decent and humane treatment for men serving extremely long sentences and the need to work with men to help them address their offending behaviour have to be balanced. This inspection found that Wakefield had made progress in developing and embedding a constructive and decent staff culture and had started to make progress in working constructively with men, most of whom had committed the most serious of offences.

Inspectors were concerned to find that: - levels of violence were not high, but had increased, particularly assaults against staff; - F wing, the segregation and CSC unit, remained a poor environment and plans to carry out a refurbishment were welcome; - structures to provide care and progression planning for men held in segregation were very weak; - more needed to be done to understand the more negative perceptions of black and minority ethnic prisoners. - controlled unlock protocols we observed in the segregation unit were an extreme intervention which were said only to be used on those who were actively refractory. However, if misused they could have allowed significant risks of mistreatment or abuse. These protocols needed to be more closely and robustly monitored to ensure the measures were only used in extremis and that supervision was accountable. - too many men were locked in cells during the working day, which reflected the shortage of activity places available, although efforts were being made to address this. - Inspectors made 56 recommendations - Inspection 30th June/11th July 2014, published 04/11/14

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, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' 502 (07/11/2014)

'His Fight For Justice Must and Will Continue' *Mary-Rachel McCabe, 'The Justice Gap'*

A posthumous attempt to overturn a conviction in a case which raises serious concerns about the Court of Appeal's approach to miscarriages of justice was launched at an event in Parliament earlier this week. Tony Stock died on November 29 2012. He spent 43 years fighting to clear his name in a case that was described by the Labour MP for Huddersfield Barry Sheerman on Monday as 'one of the most outrageous miscarriages of justice in modern times'. The MP was speaking at a launch of The first miscarriage of justice: the amazing and unreported case of Tony Stock, by JusticeGap editor Jon Robins. The book is part of an effort to get Stock's conviction overturned.

Following a three-day trial in July 1970, Tony Stock was sentenced to 10 years for his part in a violent armed robbery in Leeds city centre. 'It's a shocking story in any number of ways,' said author Jon Robins. 'It involves disturbing allegations of police corruption as well as organised crime. But the most shocking aspect of all is what this story reveals about our criminal justice system – in particular the reluctance of the Court of Appeal to satisfactorily deal with what we would argue is a self evident injustice.'

Tony Stock always insisted he was celebrating his 30th birthday with his wife and four children on January 24, 1970 at the time the police claimed he was committing the robbery. His daughter, Twinnie who was six years old in 1970, and son, Steve, who was two, were at the launch with their families. 'I didn't really know my dad when I was growing up,' Steve said. 'The first six years of my life he was doing a 10-year stretch for an armed robbery. Life was hard for us growing up. We all knew he didn't do it. But it's still broke up the family. My mum was left to look after us all. But life didn't move on for Dad.'

Glyn Maddocks, Tony Stock's solicitor for 20 years, paid tribute to a man 'small in stature, but very big in dogged determination'. 'Sadly, Tony knew that time was running out for him and he wanted above all else, to achieve justice before he died. He didn't achieve this. His fight for justice must and will continue.' Maddocks said that the case raised serious questions about the way the criminal justice system dealt with miscarriage cases. : 'The question is why has the Court of Appeal turned the case down on four separate occasions? Sadly, the answer goes to the very heart of the problem with miscarriage of justice cases. That is the Court of Appeal's lack of willingness to engage with – or even recognise – the problem and its often intransigent, arrogant and – dare I say – obdurate view that it knows best. The court is constrained by its own previous decisions, however wrong they may have been and, knows that it's almost impossible for it to be challenged when it gets a case as wrong as it has done with Tony Stock." Maddocks will be working with Ralph Barrington, a former head of Essex CID on an application back to the Court of Appeal. If successful it would be an unprecedented third referral. Barrington, who was investigations adviser at the Commission for 13 years.

Laurie Elks, a former CCRC commissioner, asked to say a few words – which he has asked to be made available as a public document. He argued that if the CCRC was to fail to refer the case then the family could judicially review the commission to force a referral. 'If on the other hand, the judiciary closes ranks and decides that it is expedient to perpetuate this miscarriage of justice, then it will be a matter for politicians and legislators to resolve.'

Laurie Elks Founder Member of the CCRC Comments on Tony Stock

When Mr Stock was convicted in 1971 there appeared to be a strong case again him. Eyewitness evidence of Mr Wilson; identification evidence of Tesco staff who said they observed Mr Stock casing the joint; incriminating admissions; paraphernalia from the robbery found by Wetherby racecourse, an alibi which must have appeared unbelievable in the face of all this evidence. Over the years, following investigation by the CCRC and others, this evidence has peeled away to the point that there is no reliable evidence against Mr Stock at all. As a former member of CCRC, I tend to recoil from the formulation "X is innocent". It has been used too often, and not always…how shall I put it, in the most clear-cut cases. So I will be more forensic and say that – on the basis of evidence now available – there is no basis to convict Mr Stock. Indeed, I do not think that the case as it now stands would be fit to put before a jury.

Without going into detail, I accept that Mr Wilson, the eyewitness who confronted the robbers for a couple of seconds on a January night, still believes the person he saw was Mr Stock. But fleeting eyewitness identification is a tricky business and I am quite sure that aspects of the way that Mr Wilson was handled as a witness led him to be surer than he could ever properly have been, about the identity of the person he saw. I repeat, no reliable evidence against Mr Stock at all, and strong evidence that others were responsible. All this was laid out in painstaking detail in the second CCRC referral leaving no room for misunderstanding. Yet the Court rejected the appeal – why? It is not as if the statute – Section 2 Criminal Appeal Act 1995 – is unclear: the Court of Appeal shall allow an appeal against conviction if they think that the conviction is unsafe In a case called Graham, which shortly followed the Act, the Court said this: if, for whatever reason, the court concludes that the appellant was wrongly convicted of the offence charged or is left in doubt whether the appellant was rightly convicted of that offence or not, then it must of necessity consider the conviction unsafe.

So what is the problem in Mr Stock's case? I have argued elsewhere that the Court has adopted a shabby device, which I described as "atomism" in Mr Stock's – and some other cases. It has been Mr Stock's misfortune that the case against him has unravelled by degrees, (and I should add, parenthetically, that it could have all come out earlier if the police investigation in the 1970s had been handled differently). Returning to the analogy of the onion, at each sitting the Court has looked at, or perhaps weighed, the onion peelings – the new exculpatory matters arising since its last hearing –and in effect snorted: that's not much compared with the towering weight of the verdict of the jury who were certain of Mr Stock's guilt. Had they adopted a holistic approach and asked the correct question: are we in doubt, looking at the case in its entirety, whether Mr Stock was rightly convicted – they would have been bound to quash. There are – small "p" – political reasons why the Court feels it needs to hold its ground in this case. I do not have time now to "go there". I will just say that the legislation was not supposed to work like this.

What should happen now? I understand that a further application is pending. But since the last referral so comprehensively deconstructed the case against Mr Stock, I am unsure what new matters a further referral could raise. If there are no substantial new matters I feel that the CCRC might write a relatively short statement of reasons setting out: 1) How each layer (or perhaps I should switch to the analogy of the orange and say "segment") of the case against Mr Stock has become wholly unreliable. 2) That it appears to the CCRC that there is no basis on which the Court could feel sure that Mr Stock was rightly convicted. 3) But since this was all clear and manifest in the 2007 referral, which was rejected by the court, the CCRC cannot see that the real possibility test is satisfied. And let the matter be then tested by the Administrative Court in judicial review proceedings. If the Court direct the CCRC to refer, as happened in the case of Mills and Poole,then all well and good. If on the other hand, the judiciary closes ranks and decides that it is expedient to perpetuate this miscarriage of justice, then it will be a matter for politicians and legislators to resolve.

Despite the YJB's insistence that unlawful restraint stopped in 2008, last year the Guardian reported that five teenage inmates at Hindley young offender institution, Wigan, suffered broken limbs while being restrained in 2012. One inmate had his wrists broken twice, while being restrained by the same prison officer. In all bar one case, the restraint was used for non-compliance. Last year, Rainsbrook became the first STC to start using a new system of restraint called minimising and managing physical restraint (MMPR). All penal institutions holding children are expected to operate MMPR by 2015. The manual depicting the system's techniques has 182 redactions. Only government officials, custody officers, and a select group of experts know what ministers have authorised.

Earlier this year, children's rights campaigner Carolyne Willow made a freedom of information request to the Ministry of Justice (MoJ) to see the unredacted version of the manual. The request was refused on the grounds that inmates may study the manual and develop countermeasures to restraint. Last month, Willow went to the high court to ask that the MoJ be made to disclose the manual without redactions. Judgment was reserved until the end of October.

In July this year, Hassockfield STC, where Adam Rickwood died, was inspected by the Prisons Inspectorate. A questionnaire at the end of the report revealed that 50% of the detainees reported being restrained at the centre. • This article was amended on 28 October 2014 to remove details relating to Shanice Paris Goff as the investigation into her death is ongoing. It was further amended on 29 October 2014 to clarify that G4S and Serco did not pay all the total of nearly £100,000; a third was paid by the Youth Justice Board.

Police Cautions Replaced With Punitive Sanctions *Owen Bowcott, Guardian*

Police cautions have been abolished in three parts of the country from Monday 3rd November 2014 under a pilot project aimed at replacing them with more punitive sanctions. If successful, the new system of community resolutions and suspended prosecutions will eventually replace the almost 400,000 cautions delivered by officers in England and Wales every year. The Ministry of Justice said the reform would bring "an end to soft cautions" following criticisms that too many offenders were escaping any form of punishment.

The justice secretary, Chris Grayling, said: "It isn't right that criminals who commit lower-level crime can be dealt with by little more than a warning. It's time we put an end to this country's cautions culture. "Every crime should have a consequence, and this change will deliver that. Under the new system we are introducing, offenders will face prosecution if they fail to comply with the conditions set by the police, so that no one is allowed to get away with the soft option. This new approach will empower victims and give them a say in how criminals are dealt with, as well as making it easier for officers to deal with more minor offences."

Under the new system, victims will be given a say in how first-time offenders serve their punishment and offenders may be sent on rehabilitation courses. Those who refuse to accept a notice will still have the option of going to court. There are currently six categories of caution: conditional caution, simple caution, penalty notice for disorder, cannabis warning, khat warning, and community resolution. In the 12 months to March this year, 391,171 were handed out. The number of cautions has mushroomed over the past decade but has declined more recently. In 2007, around 650,000 cautions were issued, triggering claims that criminals were avoiding court.

The two new notices – the statutory community resolution and suspended prosecution – are intended to simplify the system. Police in Staffordshire, West Yorkshire and Leicestershire will start using them next week for a 12-month trial period. Lynne Owens, the chief constable of Surrey who is the national policing lead on out of court disposals, said: "The current out of

G4S and Serco Pay Out in Youth Restraint Claims *Eric Allison and Simon Hattenstone*

Fourteen children who were assaulted by G4S and Serco staff while being detained in secure training centres (STCs) between 2004 and 2008 have received damages following a Guardian investigation. Neither company has admitted liability, but almost £100,000 has been paid out in compensation to the complainants who are now adults. A third was paid by the Youth Justice Board and G4S and Serco paid the rest. The Guardian investigation followed a public outcry caused by the deaths in 2004 of Gareth Myatt and Adam Rickwood in the STCs. Myatt, aged 15, died after being unlawfully restrained by three officers in Rainsbrook STC, near Rugby. He had been restrained for refusing to clean a sandwich toaster, which he said he had not used.

Myatt was 1.47m (4ft 10in) and weighed 41.3kg (6st 7lb). One restraining officer was 1.85m (6ft 1in) and 101.6kg (16st). When he told the restraining officers he couldn't breathe one replied: "Well, if you are shouting, you can breathe." Rickwood, 14, killed himself after being unlawfully restrained by four adult carers at Hassockfield STC, where he had been on remand for just over a month on wounding charges. Officers unlawfully restrained him using a "nose-distraction" technique (severe tweaking) after he refused to go to his room. The families of Myatt and Rickwood discovered that in all four STCs in England and Wales staff were routinely using force to discipline children. That is against the terms of their contracts with government, which stated that force can only be used as a last resort, to prevent injury or damage.

Four years ago, the Guardian received irrefutable evidence that children continued to be restrained for non-compliance in STCs and young offender institutions long after the deaths of Myatt and Rickwood. The Guardian contacted lawyers Bhatt Murphy, who began to seek legal redress for the children concerned. By 2012, the Guardian had traced the whereabouts of 20 children whom we believed had been unlawfully restrained in STCs, 16 boys and four girls. STCS have been criticised for their expense (£178,000 a year per head), their aggressive culture and the high recidivism rate of the children detained in them.

Of the boys the Guardian traced, 15 were back in prison and one in Pakistan, where he had been sent by his parents to stop him getting in trouble with the law again. Two of the girls were dead. One, Cara Burke, was murdered and mutilated by a drug dealer in Brazil in 2009. She was 17. The other, Shanice Paris Goff, died at the age of 18 in April 2012 as a result of a fall from the 17th floor of a flat in Woolwich. An inquest into her death is forthcoming. The Youth Justice Board (YJB) is responsible for protecting children in custody, but it gave conflicting and contradictory guidance on when force was appropriate. In 2008, it even tried to rush through an amendment to the STC rules which made the use of force for good order and discipline lawful.

In 2012, The charity Children's Rights Alliance England (CRAE) launched a high court action to force the YJB to disclose the names of children who had been unlawfully restrained, for non-compliance in STCs. The case came before Mr Justice Foskett. He eventually ruled against CRAE, but his judgement contained scathing criticism of the unlawful use of restraint in STCs. "During a prolonged period, restraint techniques were used in these STCs for unlawful purposes … There is no escaping the conclusion that the monitoring of STCs by the YJB appointed monitors failed to identify and/or act in relation to the unlawful use of restraint.

One of the 14 claimants represented by Bhatt Murphy said: "I was there to help me obey the law, but instead the STC staff themselves acted unlawfully by physically abusing me again and again." In its letter of apology the YJB said: "We regret that in secure training centres until 2008 force was used in circumstances which we and the STC providers now know were unlawful. The YJB would like to say sorry to any young person who was subjected to unlawful restraint in these circumstances."

Clamour to Keep Harry Roberts in Jail is Wrong-Headed *Observer Editorial*

The imminent release of Harry Roberts, jailed in 1966 for shooting dead two police officers in cold blood, has prompted widespread revulsion. For the families of the slain men it has dragged up painful memories. For police officers, it has served as a reminder of the ultimate price that some of them pay. And for politicians it has provided a platform to express outrage. The home secretary, Theresa May, has repeated her pledge to introduce a law that ensures "cop killers" die in jail. Sentencing him to a minimum of 30 years, the judge, Mr Justice Glyn-Jones, said Roberts had committed the "most heinous crime for a generation or more". The additional 18 years that Roberts has served reflects the lack of remorse he has shown for his actions.

However this is not to say he should never be released. A prison sentence is as much about rehabilitation as it is about punishment. To suggest that the murderers of police officers are somehow different from terrorists or others who have taken lives is illogical.It would also undermine the parole board for England and Wales, the independent body that assesses when prisoners can be released. It is hard to see how a criminal justice system can function without such a body. Some will argue that the killers of police officers should be made examples of, in order to send a clear message to society. But where to draw the line? Is the life of a policeman worth more than that, say, of a prison officer?

Ultimately, as the former Met commissioner, Lord Condon, has argued, a mandatory whole life sentence will put police officers at greater risk. Someone who has killed one policeman knows that they will spend the rest of their lives in jail. Put bluntly, they have nothing left to lose by going on a killing spree. And that makes them more dangerous to police officers. The parole board has decided Roberts, 78, is no longer dangerous. Let him out.

Kevan Thakrar to Face Excrement Attack Charge

Kevan, is accused of attacking the female prison officer at HMP Manchester in August last year when she answered an alarm call to his cell. In March the Crown Prosecution Service decided to discontinue the case, arguing it was not in the public interest, but this was challenged by The Prison Officers Association which called for a Judicial Review. Sitting in the High Court at Manchester Monday 27th October, Mr Justice Stewart ruled that the CPS' decision to discontinue criminal proceedings was unlawful. The proceedings have now been reinstated and Thakrar will face trial in a magistrates' court.

Harm Multiplies When The Innocent are Wrongly Convicted

In June of 1995, I found myself on a journey I never wanted, never asked for and never would have wished on another human being. I learned that the man whom I had identified in court as my rapist – the man whose face, breath and evilness I had dreamt about for 11 years – was innocent. The man whom I believed had destroyed me that night, who had stolen everything from me, and whom I hated with an all-consuming rage had lost 4000 days, eleven Christmases, eleven birthdays, and relationships with loved ones. And on June 30th of 1995, Ronald Cotton, the man I had hated and prayed for to die, walked out of prison a free and innocent man.

My rage and hatred had been misplaced. I was wrong. I had sent an innocent man to prison. A third of his life was over, and the shame, guilt and fear began to suffocate me. I had let down everyone — the police department, the district attorney's office, the community, the other women who became victims of Bobby Poole, and especially Ronald Cotton and his family.

Several years after Ronald was freed, I received a phone call from Bobby Poole's last vic-

tim. I remember hearing her story about what happened to her and realizing that we all had left him on the streets to commit further crimes – rapes — that we possibly could have prevented if Ronald had not been locked up for something he had never done. The knowledge that Mr. Poole had been left at liberty to hurt other women paralyzed me and sent me into a backward spiral that took years to recover from. This journey has taught me that the impact of wrongful convictions goes so much further than a victim and the wrongfully convicted. The pool of victims from 1984 was huge – me, Ron, the police department, our families, and the other women who became victims of Bobby Poole all suffered.

This case crystalized for me why it is so important to have laws in place that protect the innocent. Those laws would be important enough if they only protected the innocent, but they do so much more. They also protect the potential victims of real perpetrators, the families and children of the wrongfully convicted person, and – ultimately – the victim who learns the truth.

The Justice for All Act, which is up for reauthorization by Congress, allows men like Ronald to obtain post-conviction DNA testing that can lead to their freedom and to the conviction of the guilty. Without access to such testing, innocent men will remain in prison, real perpetrators will remain free, and new victims will have to experience the same horrors and indignities that I did. I urge Congress to pass the Justice For All Act now so that we can live in a world where the truly guilty are behind bars and the innocent are free.*Jennifer Thompson, Wrongful Convictions Blog*

Death Row Inmate Challenges Six Years Solitary Confinement *Guardian, 27/10/14*

Virginia's practice of automatically holding death row inmates in solitary confinement will be reviewed by a federal appeals court in a case that experts say could have repercussions beyond the state's borders. US district judge Leonie Brinkema in Alexandria ruled last year that around-the-clock isolation of condemned inmates is so onerous that the Virginia department of corrections must assess its necessity on a case-by-case basis. Failure to do so, she said, violates the inmates' due process rights. The state appealed, arguing that the courts should defer to the judgment of prison officials on safety issues. A three-judge panel of the fourth US circuit court of appeals will hear arguments Tuesday.

The lawsuit was filed by Alfredo Prieto, who was on California's death row for raping and murdering a 15-year-old girl when a DNA sample connected him to the 1988 slayings of George Washington University students Rachel Raver and Warren Fulton III in Reston. He also was sentenced to death in Virginia, where he has spent most of the last six years alone in a 71-square-foot cell at the Sussex I state prison. Some capital punishment experts say a victory by Prieto could prompt similar lawsuits by death row inmates elsewhere. "It gives them a road map," said northern Virginia defense attorney Jonathan Sheldon, who noted that the due process claim succeeded where allegations of cruel and unusual punishment have routinely failed. "It's not that common to challenge conditions of confinement on due process grounds." Even the state says in court papers that Brinkema's ruling "would do away with death row as it is currently operated in Virginia and numerous other states". Andrea Lyon, a death penalty lawyer and dean of the Valparaiso University Law School in Indiana, agreed that the case could have a ripple effect nationally but said prisons would not become more dangerous as a result. "This is not stepping on the right of prisons to make their own determination of whether or not someone needs this level of confinement," she said. "Just don't do it if there's no reason."

Lyon, who has represented 138 murder defendants, co-authored a 2005 report on Missouri's policy of "mainstreaming" death row inmates into the general prison population. She said a

CF submitted that he was in the dark as to the defendants' position in the claim, as they had made a general denial of wrongdoing but had not specifically denied all his allegations. He therefore argued that it was is essential, in the interests of justice and to achieve conformity with Article 6, that there should be disclosure of "a substantial amount of information", and that as a minimum, he should be provided with a response to each specific allegation, in the form of admission, non-admission or denial, and that he should be given "an intelligent, balanced and accurate summary of the defendants' positive case".

Court's decision: The application was refused. In a case not directly affecting the liberty of the subject, there was no irreducible minimum of disclosure, or necessary minimum revelation by summary or gist of the defendants' case, which the court would require despite the consequences for national security. Even though CF's case had potentially important issues of public interest, it was essentially a claim for compensation. The court had to conduct a balancing exercise, bearing in mind the competing principles of maximising the trial's fairness and the preservation of national security. Both injustice to a claimant and injustice to the state were to be avoided. The latter would arise if disclosure would so compromise national security that the state was compelled to settle what could be an unmeritorious claim.

The court rejected CF's submission that Carnduff v Rock [2001] EWCA Civ 680 was relevant only in the context of public interest immunity; on the contrary, an unjust victory, achieved only because a case was untriable, had to be avoided if at all possible. This would be the inevitable outcome if the government could not properly defend its case without compromising intelligence information. A proper adjudication on the facts, even if all the facts could not be public, had to be a superior outcome to an unmerited loss by either side. The public interest was also served by a trial and done a disservice by a default outcome. 'If the state lost by default, there would be an unjust payment, and there would be no scrutiny of what had been done in the state's name. The court was unable to spell out in open judgment its consideration of the arguments in the closed proceedings.'

In this case, the court had carefully considered the material the defendants had relied on in applying for the s.6 declaration, which was the most central material in the case. It had seriously considered whether some of that could be released without damaging national security, but that was not possible. Irwin J was also persuaded that the Strasbourg authorities supported this approach; he cited Lord Mance in Tariq v Home Office: [he] concluded that the European jurisprudence set out in Kennedy, meant that, subject to safeguards sufficient for the case in hand: "… national security considerations may justify a closed material procedure, closed evidence (even without the use of a special advocate) and, furthermore, (as in Kennedy itself) a blanket decision leaving the precise basis of determination unclear."

The material was cross-referential; there could not be disclosure of any meaningful part of it without leading on to the remainder. For those reasons, and for reasons expressed in the closed judgment, no useful additional disclosure was possible without severe compromise of national security. 'I wish to stress that in approaching this decision I have not applied a government policy of "neither confirm nor deny", far less watched such a flag be hoist up a flagpole and responded with an automatic salute. I have considered with close care the body of material which was relied on by the Secretary of State in applying for the declaration under Section 6, and which, as I observed in the previous judgment, is the most central material in the case. I have given genuinely anxious thought to whether some of the material could be released without creating damage to national security. I do not believe that is possible.' The safeguards would be the special advocates' assistance and a careful consideration of the inferences to be drawn. There was no important matter in the case where CF's case was unknown and the special advocates would be unaware of the case they had to put. *Rosalind English for UK Human Rights Blog,*

of state over what is a properly justiciable claim." [Para 120]

Today's ruling follows a three-day hearing in July this year which, for the first time in this case, submissions were heard from the UN Special Rapporteur on Torture and the UN Chair Rapporteur on Arbitrary Detention. The NGOs Amnesty International, the International Commission of Jurists, JUSTICE and REDRESS also intervened jointly.

The allegations against the security services and Mr Straw arise from documents discovered after the fall of Colonel Gaddafi's regime, when documents were discovered in the headquarters of the fallen regime's intelligence agency. In one letter from Sir Mark to Moussa Koussa, head of Gaddafi's intelligence agency, dated March 18 2004, Sir Mark passes on thanks for helping to arrange Tony Blair's visit to Gaddafi, writing: "Most importantly, I congratulate you on the safe arrival of Abu Abd Allah Sadiq [Mr Belhaj]." He continues: "This was the least we could do for you and for Libya to demonstrate the remarkable relationship we have built over the years."

Sapna Malik from law firm Leigh Day, who represents Mr Belhaj and Ms Boudchar, said: "The Court of Appeal has rightly recognised that the gravity of the allegations raised by our clients makes it all the more compelling for the English courts to get on and deal with their case and to reject outright the attempts by Jack Straw, Mark Allen and the government defendants to shield their conduct from judicial scrutiny. Our clients are now a significant step closer to seeing justice done in their case."

Cori Crider, a Director at Reprieve, which also represents the family, said: "The government so fears this case going to trial that they have stalled for years by throwing up a parade of scarecrows – claiming, for example, that the United States would be angered if Mr and Mrs Belhaj had their day in Court in Britain. The Court was right: embarrassment is no reason to throw torture victims out of court. The government's dubious and wasteful delay tactics in this case need to end. Enough is enough."

Abdul-Hakim Belhaj said: "My wife and I are gratified by the judges' decision to give us our day in court. Our part of the 'deal in the desert' – the kidnap, the secret CIA jail, the torture chamber in Tripoli – is as fresh and as painful for us as if it happened yesterday. "We never dreamed Britain would have conspired in such a thing until we saw the proof with our own eyes, right there in Moussa Koussa's dusty binders. There is only one way put our story to rest: justice. We look forward to a full public trial and pray the truth will finally come out."

Government Not Required to Disclose Full Details of Defence

CF v Ministry of Defence and others [2014] EWHC 3171 (QB) - The High Court has ruled that in a case against the state which did not directly affect the liberty of the subject, there was no irreducible minimum of disclosure of the state's case which the court would require. The consequences of such disclosure for national security prevailed

Factual and legal background: The claimant, Mohammed Ahmed Mohamed, had made a number of claims against various government departments, alleging complicity in unlawful and arbitrary detention and inhuman and degrading treatment and torture on the part of British authorities in Somaliland. He also sought damages for trespass, breach of the Human Rights Act 1998, and misfeasance in public office. As Irwin J said,

The remedy sought is not confined to ordinary compensation, but extends to damages for breach of the Convention and to declaratory relief, which in the context of this case, and if the Claimant succeeded, would represent an important marking of unlawful behaviour: a matter in which there is a legitimate public interest. In this hearing the claimant sought further disclosure of the defence in his claim against government departments, where a closed material procedure had been permitted under Section 6 of the Justice and Security Act 2013.

study of 11 years of data from that state's prison system disproves the "mythology" that death row inmates are more dangerous than other prisoners. But where Lyon sees mythology, Virginia prison officials see sound judgment rooted in common sense and years of experience dealing with death row inmates. "They're segregated because we see those individuals as potentially the most desperate of all offenders," state prisons chief Harold C Clarke said in a deposition in the Prieto lawsuit. "Again, they have been sentenced to die. They have nothing to lose."

He pointed to the 1984 escape by six death row inmates who had been allowed to congregate at the since-closed maximum security prison in Mecklenburg, saying the jailbreak "could have been catastrophic" had the convicted killers not been quickly apprehended. Virginia was not automatically isolating death row inmates at the time. Prieto is not arguing that solitary confinement should be abolished – just that the decision should be based on the same risk factors that are used to determine the security classification for the approximately 39,000 prisoners who are not facing execution. His lawyers say Prieto "likely would be assigned to less harsh conditions" if death row inmates were assessed in the same manner as other prisoners.

Under the current policy, death row inmates are allowed to leave their tiny cell only three times a week for 10-minute showers and five times a week for an hour of solitary exercise in a separate and slightly larger cell, devoid of workout equipment, that prisoners call "the dog cage". They eat every meal alone, are not eligible for work or education programs or congregational religious services, and are allowed strictly limited visitation. The inmates are allowed to purchase a small television and CD player for their cell. Sheldon, who represents three of Prieto's fellow death row inmates, said prison officials have made some modest adjustments to Prieto's visitation and exercise privileges in response to Brinkema's ruling. Department of Corrections spokeswoman Lisa Kinney said prison officials have "taken steps in cooperation with the plaintiff's counsel to address the judge's order, pending appeal", but she declined to provide specifics. Prieto's lawyers declined to comment.

Divisional Court Hands Down Important Sentence Calculation Decision

The case concerned the calculation of a prisoner's sentence when he had been on remand before starting the sentence. The Claimant had been in custody on remand for a period exceeding the sentence imposed for handling stolen goods. He sought judicial review of his subsequent recall to prison for breach of his licence. The Divisional Court, in dismissing the application, held that, on the proper construction of the Criminal Justice Act 2003, it allowed time on remand to be counted only against time spent in custody, but it could not be credited to reduce time spent on licence. Further, the claimant's rights under art 5 of the European Convention on Human Rights had not been breached.

Conviction & Imprisonment for Public Nudity Not in Breach of Article 8

The case concerned in particular Mr Stephen Peter Gough's complaint about his repeated arrest, prosecution, conviction and imprisonment in Scotland for breach of the peace because of his nudity in public places.The Court found that Mr Gough's nudity in public was a form of expression of his opinion on the inoffensive nature of the human body. It accepted that the cumulative impact of the numerous sentences of imprisonment served in Scotland – which amounted to over seven years – was severe. However, the Court emphasised Mr Gough's own responsibility for his convictions and the sentences imposed because of his wilful refusal to obey the law over a number of years. It also referred to his duty to show tolerance and

sensibility to the views of members of the public, who were likely to be alarmed and offended by his nakedness. It pointed out that there were other avenues open to Mr Gough to express his views on nudity. It concluded that Mr Gough's lengthy imprisonment had been the consequence of his repeated violation of the criminal law, in full knowledge of the consequences, through conduct which went against the standards of accepted public behaviour in any modern democratic society. Having regard to the discretion allowed to the national authorities in this area, the Court found no violation of Article 10. The Court also found that, even if Mr Gough's conduct fell within the scope of protection of "private life" under Article 8, the measures taken against him were justified for the reasons given in respect of Article 10.

Prisons: Organised Crime - Gang-Related Intelligence *House of Commons*

Steve Rotheram: To ask the SSJ, what steps he is taking to increase gang-related intelligence for prison officers prior to prisoner arrivals in order to prevent mixed gang wings.

Andrew Selous: On arrival in an establishment, the risk a prisoner presents to others and themselves, and their risk of harm from other prisoners will be assessed. Where appropriate, this will include a Cell Sharing Risk Assessment to assess a prisoner's suitability to share accommodation. The risk assessment will consider information and intelligence from a number of sources, including known gang affiliations and conflicts if appropriate. In April 2014, NOMS completed the implementation of a nationally networked intelligence system - 'Mercury'. Through the Mercury system staff are able to access intelligence linked to prisoners where a prisoner has previously been held in custody, on or in advance of a prisoner's arrival (where a prisoner is being sent from another establishment). In addition where a prisoner has previously been held in custody, the National Offender Management Information System (NOMIS) will hold warnings to alert staff to particular risks and behaviours. A number of law enforcement agencies, including the police, regularly share information about prisoners to support the identification of risk. This includes prisoners with gang affiliations and conflicts. To ensure that prisoners are held in safe, decent and secure conditions, the risks to and from prisoners remain constantly under review. Where risks become known, establishments take appropriate steps to mitigate these risks, which may include relocating a prisoner to another wing or establishment.

R**eport on an Unannounced Inspection of HMP Wymott**

HMP Wymott, located in central Lancashire, is a category C training prison for adult male prisoners. Spread over a large site it holds over 1,100 prisoners, many of whom are on discrete wings for vulnerable prisoners and who were sex offenders.

Inspectors were concerned to find that: - although prisoners reported feeling safe, a significant number of vulnerable prisoners said they felt victimised and bullied; - there had been three self-inflicted deaths since the last inspection in 2012 but arrangements to support those in crisis were inconsistent; - there was considerable evidence, including the recent hospitalisation of three prisoners who had taken psychoactive substances, to indicate the use of drugs was too prevalent; - the promotion of equality was very weak and structures to monitor outcomes for minorities were limited, except for older prisoners and those with disabilities held on I wing, which provided good care; - the reasonably good quality health care was undermined by long delays and poor access to GPs and the dentist; - many offender managers were new to the role and lacked confidence and the quality of risk of harm assessments was mixed, which was a concern among a population that contained a number of high-risk offenders - Inspectors made 75 recommendations Inspection by HMCIP 23rd June/4th July 2014.

made by some Peers that they are acting in bad faith and the concern stressed by some commentators that these proposals, not by coincidence but by design, are constructed not to improve efficiency but to shield Government and public agencies from effective oversight.

Yet, the real implications of last night's vote will be played out in the coming days at the offices of the Ministry of Justice and in the conscience of Ministers of both political colours. In light of the constitutional significance of the change proposed, the cross-party concern expressed in the Lords, and the limitations of the Government's case for change; these three strikes should provide not a glancing, but a knock-out blow.

Landmark Judgment in Jack Straw Libyan Rendition Case *Leigh Day Solicitors*

The Court of Appeal have today (30 October 2014) ruled that the legal case against the former foreign secretary Jack Straw and a senior MI6 officer, which alleges that they were unlawfully involved in the torture and illegal rendition of a Libyan man and his pregnant wife, to Gaddafi's Libya in 2004, can be heard in an English Court. The successful appeal, brought by law firm Leigh Day and charity Reprieve, reverses a previous High Court judgment handed down by Mr Justice Simon in December 2013 which ruled that English courts should not hear evidence or rule on the case, because the unlawful abduction, kidnapping and removal to Libya in March 2004 of Libyan politician Abdul-Hakim Belhaj, and his then pregnant wife Fatima Boudchar, took place with the assistance of other states – in particular the US.

In 2013 Mr Belhaj and Ms Boudchar offered to settle the case for £3 for an admission of liability and an apology. This offer was not accepted by the defendants. Today's landmark ruling handed down by the Master of the Rolls, Lord Justice Dyson, in the Court of Appeal, found that English Courts should hear the claims against Mr Straw and the form head of MI6 counter-intelligence, Sir Mark Allen, given that they "…are either current or former officers or officials of state in the United Kingdom or government departments or agencies." [Para 117]

Recognising the seriousness of the charges against the men, including rendition to torture, the judgment clarified: "…their conduct, considered in isolation, would not normally be exempt from investigation by the courts. On the contrary there is a compelling public interest in the investigation by the English courts of these very grave allegations." [Para 117] "…the applicable principles of international law and English law are clearly established. The court would not be in a judicial no man's land." [Para 118]"…unless the English courts are able to exercise jurisdiction in this case, these very grave allegations against the executive will never be subjected to judicial investigation. The subject matter of these allegations is such that, these respondents, if sued in the courts of another state, are likely to be entitled to plead state immunity. Furthermore, there is, so far as we are aware, no alternative international forum with jurisdiction over these issues. As a result, these very grave allegations would go uninvestigated and the appellants would be left without any legal recourse or remedy.' [Para 119]

The Appeal Court judges recognised the concerns raised over the UK's relationship with the US and a risk that damage will be done to the foreign relations and national security interests of the United Kingdom, but in their judgment they explained: "…we do not consider that in the particular circumstances of this case these considerations can outweigh the need for our courts to exercise jurisdiction… we consider that there is a compelling case in favour of these proceedings being heard in this jurisdiction. In this particular context, the risk of displeasing our allies or offending other states, and even the risk of the consequences of varying severity which it is said are likely to follow, cannot justify our declining jurisdiction on grounds of act

Finally; the democratic case. Last night put paid – in robust terms – to the final vestiges of the Government's claim that these proposals were designed with a democratic goal at heart. Yet, the Minister persisted, with echoes of the more direct suggestion of the Lord Chancellor that judicial review is some-how anti-democratic, suggesting that the time of Government was better spent productively, rather than resisting judicial review claims: "Even when decisions are perfectly in line with due process, months can be spent preparing for and defending claims when that time would be better spent taking forward the reforms that the country needs."

We have considered at some length in this blog the considerable criticism of the first report of the Joint Committee on Human Rights. Less than two weeks ago, that Committee reiterated its conclusions supporting amendments near identical to those put to the vote last night. Between these two volumes sits the conclusion of the House of Lords Constitution Committee. To belittle judicial review on constitutional grounds presents a skewed vision of democracy and shows little understanding of the role of an independent judiciary, and of checks and balances, in modern democratic Government. Criticism by two parliamentary committees and three defeats in the Upper House provides little straw to cement an already flawed constitutional argument in favour of change.

Although the dinner bell proved a decisive factor in the debate – with no further amendments moved – a few important points were made as the evening drew to a close. Responding to an amendment to clarify Parliament's intention that LASPO powers were never intended by Parliament to be used for the purposes of further restricting access to or eligibility for, the Minister somewhat incredulously explained: "[T]he regulations made under Section 2 of LASPO do not affect the availability of civil legal aid to individuals, the scope of civil legal aid for judicial review or the eligibility of applicants for legal aid in judicial review proceedings. Where a client is in receipt of legal aid, he or she will remain so for the life of the case unless it is withdrawn for other reasons. These changes relate only to the remuneration of legal aid providers. To put it more simply, it is the lawyer who loses out. The client does not lose legal aid. [...] Legal aid can be available. Whether the lawyer is paid, in the case of an unsuccessful application for permission, does not remove the individual's essential right to legal aid." As Lord Pannick said in winding the debate up – with some sympathy for the Minister's clearly difficult brief – slugging away at these same, tired arguments, simply "won't wash".

The crucial remaining question is yet, what comes next. The final stage of the Bill in the House of Lords – Third Reading – is scheduled for later in the month (with debate expected on 10 or 17 November), before the Bill then returns to the House of Commons for the consideration of Lords amendments. In light of the strong feeling in the Upper House, there may yet be scope for further amendment, perhaps revisiting the provisions on PCOs.

However, the key question is whether and how the Government will engage with the Lords amendments between now and the next Commons vote. Will officials urge Ministers to bring forward alternative amendments in compromise, or will the coalition Government force through the original proposals unchanged?

All of the legal arguments have now been made, both by commentators and by MPs and Peers of all political persuasions and none. What remains is a political dialogue within the parties of the coalition and with backbenchers about the constitutional significance of this vote – and this Bill. The question is whether both parties in Government feel sufficiently strongly to reject the message sent by the House of Lords. By accepting the Lords amendments, the Government would create a new platform for constructive engagement in increasing the effectiveness of judicial review for all. By pressing ahead, they appear to affirm the allegation

Sodexo and Interserve To Run 50% of Privatised Probation Services *Alan Travis*

[MOJUK is of the firm opinion that there is a severe conflict of interest here. Sodexo manage five prisons four in England and one in Scotland. Probation services pretty well decide who gets out and who stays in and who goes back into prison.]

Two outsourcing companies, Sodexo and Interserve, are to be put in charge of more than half of probation services in England and Wales under the most far-reaching privatisation in the criminal justice system. Chris Grayling, the justice secretary, said the companies, in partnership with rehabilitation charities, were the preferred bidders to run 11 of the 21 planned community rehabilitation companies (CRCs) that will take over probation early next year. They will be responsible for more than half the probation staff supervising 200,000 low- to medium-risk offenders.

The contracts, worth £450m and due to be in place before the election, will hand over 70% of the work of the public probation service to private and voluntary sector providers as part of Grayling's Transforming Rehabilitation programme. The public probation service will retain control of services for high-risk offenders. Grayling said: "This announcement brings together the best of the public, private and voluntary sectors to set up our battle against reoffending, and to bring innovative new ways of working with offenders. In particular, I am really pleased that we will be deploying the skills of some of Britain's best rehabilitation charities to help these offenders turn their lives around." The announcement of the preferred bidders comes as Napo, the probation union, is preparing to launch a judicial review of the sell-off.

The list of preferred bidders includes seven private companies, 16 charities and voluntary organisations, and four mutuals. The justice ministry said 75% of the 300 subcontractors named in the successful bids were voluntary sector or mutual bidders. The justice secretary said the fact that 80 bids were received from 19 organisations was evidence of a "strong and diverse market". Sodexo Justice Services, which already runs prisons, has been named as the preferred bidder in six of the 21 areas in partnership with Nacro, the rehabilitation charity. Interserve has won the bids in five areas as part of the Purple Futures partnership which includes the charities Addaction, Shelter and P3 and a social enterprise, 3SC.

The Ministry of Justice faces a disclosure deadline for the official "risk register" which assesses the public safety implications of the privatisation under the possibility of a High court injunction. G4S and Serco, the private security companies, withdrew their bids after the Serious Fraud Office was called in to investigate overcharging of more than £100m on electronic-tagging contracts involving the two companies. The Commons public accounts committee has established that the contracts included a £300m plus "poison pill" clause guaranteeing bidders their expected profits if the 10-year contracts were cancelled after the general election.

Sadiq Khan, Labour's shadow justice secretary, said: "David Cameron's government is putting companies with little or no track record in criminal justice in charge of dangerous and violent offenders. "There has been no testing or piloting to see if this will work and won't put the public's safety at risk, and all of the concerns of Labour, experts and probation staff have been swatted away. It's also unacceptable that ministers are going out of their way to tie the hands of future governments to multibillion-pound contracts for 10 years."

Ian Lawrence, Napo's general secretary, said: "It is purely ideological that Grayling is pressing ahead with his untried and untested so-called reforms to probation. We have mounting evidence that neither the CRCs nor the National Probation Service [are] stable at the moment and this is having a direct impact on the supervision of offenders and public safety. The fact so few organisations have won contracts also suggests that this has been a flawed com-

petition with little or no real interest from providers in taking these contracts on."

There was also disappointment that experienced voluntary sector providers such as the Home Group and Catch 22 were not successful. Matt Robinson of Big Society Capital, the social investment bank, said: "The announcement of preferred bidders for probation services is very disappointing. We had hoped, and had worked hard to achieve, a much higher level of participation at the prime contractor level for charities and social enterprises, who would have brought their wealth of experience in knowing what works in tackling re-offending. Despite the rhetoric, the prime contracts now look set to be dominated by large private companies."

Nosko & Nefedov v. Russia (Conviction via Police Entrapment Violation of Article 6)

The case concerned allegations of police entrapment. The applicants, Alla Nosko and Nikolay Nefedov, are Russian nationals who were born in 1960 and 1951 respectively and live in Zarechnyy, in the Penza Region and Cheboksary, the Chuvash Republic (both in Russia).

Both applicants were targeted in undercover operations, which led to their criminal convictions in May 2008 and May 2009 respectively. Ms Nosko, dermatologist - venerologist in a hospital, was convicted of bribery for issuing a false sick-leave certificate in November 2007 to a patient, an undercover police agent, in exchange of money. Mr Nefedov, a narcology psychiatrist, was convicted of abetting bribery when an inebriated man, an undercover police agent, had been brought to his clinic in July 2008 by traffic police and he had accepted to arrange for his blood alcohol test to be altered in exchange of money. Both applicants argued during the proceedings against them that they would never have become involved in accepting bribes without having been lured into it by the police and their informants. In particular, Ms Nosko had only taken the money because she thought it was a gift from a grateful patient, who had been brought to her clinic by a long-time colleague; and Mr Nefedov had only accepted the money when the undercover officer had pleaded for his help, saying that he would lose his driving licence and his job and would not be able to support his family if the blood test was positive. The national courts, however, dismissed the applicants' pleas of entrapment.

Relying on Article 6 § 1 (right to a fair trial), both applicants alleged that their convictions for bribe-related offences had been unfair because they had been pressured into committing the crimes by the police. Violation of Article 6 § 1 - Just satisfaction: EUR 3,000 per applicant in respect of non-pecuniary damage and EUR 1,202.83 to Ms Nosko costs and expenses.

US: Blacks Must Wait Longer to be Exonerated *Michael McLaughlin, Huffington Post*

It took 18 years for DNA evidence to surface that cleared Derrick Williams of a rape and attempted kidnapping in Florida. Prosecutors had relied on the testimony of the victim, who identified Williams as her attacker in 1992. But he walked free at age 48 in 2011 because his DNA didn't match that left on a gray T-shirt by the actual perpetrator. The truth might have surfaced sooner if Williams were white or Latino instead of African-American.

There's no way to know for sure, of course, but data about wrongful convictions show that blacks who are exonerated after a bogus conviction have served 12.68 years on average before the good news, according to Pamela Perez, professor of biostatistics at Loma Linda University. It takes just 9.4 years for whites and 7.87 for Latinos.

"Black Americans are exonerated at a substantially slower rate than any other race," said a new report from Perez, shown exclusively to The Huffington Post. There's enough of a pattern that the differences between racial groups cannot be called random, Perez said. But there

On lowering the materiality threshold, Lord Deben explained: "This is where I really disagree with the Government. It is perfectly possible for a person to have been misjudged, for an issue to have been decided not in accordance with the law and for the outcome to be the same as had the law been carried through, but for it still to be an important part of freedom to ensure that the law is upheld. That is the issue of considerable importance."

Baroness Williams shared Lord Deben's concern about the role of judicial review in Ministerial decision making: "Like the noble Lord, Lord Deben, I was also a Minister for a long time. During that period, on more than one occasion, I was confronted in a very direct way with challenges to the decisions I had made, particularly about issues around comprehensive schools. What I learnt from that experience was, first, to be very careful and thoughtful about any proposals that my department made in my name. Secondly, I learnt to have great respect for the often painful occurrence of reviewing my decisions in great detail, no doubt to the displeasure of a number of local authorities who did not share my view. I am very troubled by some of the clauses, which will make it difficult for that same humble individual citizen to stand up to the state because he or she lacks the resources to do so or the ability to pay for brilliant lawyers. That is exactly the opposite of what we thought—what I have always deeply believed—that judicial review was all about."

What does this say about the Government's case for change? The Government's case for change on judicial review has been a shifting feast since the first post-LASPO consultation in April last year. Nothing in the Minister's contribution to last night's debate was new. He continued to stress that these proposals were "modest", and that the "attack" on this part of the Bill was thick with "hyperbole". He suggested that a vote in favour of the amendments would be to suggest that judicial review should be forever free of parliamentary examination. He made frequent reference to his copy of De Smith (freshly gifted by Lord Woolf during earlier debates on the Bill), suggesting somewhat strangely perhaps, that many of the changes in the Bill reflected powers already held by judges in the common law.

The statistical case for change was demolished during consultation by many, including JUSTICE. The Joint Committee on Human Rights put paid to the sweeping claim that judicial review had expanded massively earlier in the year. Yet, last night saw the Minister seek comfort in the same familiar, but flawed figures on the expansion of judicial review: "Noble Lords may be aware that the use of judicial review has increased more than threefold in recent years from around 4,200 in 2000 to around 15,600 in 2013". By this stage in the debate, the Lords are well aware that those figures change drastically when immigration figures – now moved to the Upper Tribunal and away from the administrative court – are considered. The figures for other judicial review cases have increased, but in the view of the JCHR, have remained stable. Yet, despite the difficulty with these figures, if the Government were really serious about reducing the demand on judicial review, would they have chosen to further restrict access to statutory appeal for individuals subject to immigration control? The Government's own impact assessment accompanying the Immigration Act suggests that it considers a possible increase of up to 5,000 new judicial review cases acceptable.

Next; the sums. The Government's own impact assessment has never claimed that these changes would save a significant sum. Failure to engage with the critical recommendations of the Fordham Review on Streamlining Judicial Review which would save money and increase efficiency in the administrative court, fatally undermines any realistic claim to a financial case for reform (see Government Response to the first report of the Joint Committee on Human Rights, paras 84 – 87).

my own historic profession of politician. I well remember the occasion on which I was able to use the fact of judicial review to get my civil servants to understand why I would not accept a particular appeal on a planning matter. It was because it was quite clear to me that the very powerful interests, whose infrastructure aim I entirely approved, had failed in their duty to look for alternatives to the proposal that they were putting forward. They had not, therefore, fulfilled the law. Now, sometimes it is easy for a Minister to make such a decision, but sometimes it is inconvenient. It is important that embarrassment and inconvenience should not be allowed to go so far that it means that Ministers make decisions which are unlawful. Somebody has to decide when a decision is lawful and when it is not. That is what judicial review is about; it is a very simple concept."

In over 5 hours of debate, only Lords Tebbit, Horan and Mackay rose from the conservative benches to support the Minister, Lord Faulks. Why did they vote? To preserve time for votes, the statements made during the debate were necessarily brief but striking. Lord Carlile, one of the four cross-bench Peers proposing the key amendments, began by stressing the magnitude of the issues in many judicial reviews: "These are not pragmatic actions over small sums of damages; they are actions over great issues of principle. Even if some claimants would not actually win their personal actions for judicial review, we know, from the cases which we have all read and in which some in your Lordship's House have appeared, that enormously important issues of principle for the future arise from them." "Surely we should not inhibit justice by these rather mean provisions, which, in my view, my party—the Liberal Democrats—should never have given a single piece of powder or a single piece of shot to support." (Col 963)

Lord Irvine of Lairg – former Lord Chancellor himself – called in aid the rule of law: "The judiciary is a vital component in our separation of the powers. Judicial review is indispensible in a democracy proud to be governed by the rule of law. It ensures that public bodies act according to law. They cannot be above the law. Ministers, who are politicians, often will be frustrated if their decisions are challenged or quashed, but that is an intrinsic aspect of government subject to the rule of law, as is the need for Ministers to be aware of their duty to comply with the law. A Government who are confident that their decisions cannot be readily challenged risk becoming a Government who no longer have to respect the rule of law. That is a risk that no Secretary of State for Justice, who also bears the title of Lord Chancellor and is under a duty to uphold the rule of law, should be prepared to countenance." (Col 964)

On the relevance of judicial review, Baroness Kennedy, said: "It is always about the person whose business is to be closed down from trading, based on a department's or a local authority's decision that they want to challenge, or the person whose mother is in a care home and suddenly finds that it is being moved or closed down, with no consultation as to the impact on her and her family. It may be about the effect on a disabled child of a decision about their schooling. Those things are about real people's lives and that is why this is not just a constitutional debate of high flown words or complicated legality—it is about the real impact on the lives of ordinary people."

On the role of interveners, Lord Low explained that these proposals, together with cuts to legal aid would have a particular effect on vulnerable litigants: "Following cuts to legal aid, children are increasingly forced to face court proceedings without a lawyer. In these circumstances, litigation brought by charities, NGOs and children's rights organisations in the public interest is ever more important. Equally, in the new environment where they are increasingly faced by litigants in person, the courts increasingly value the contribution of third-party interveners providing expert advice to assist them on specific points of law and fact, including points on what is in the children's best interests."

isn't enough information to explain what caused the differences. "All we can do is infer," Perez told HuffPost. "You can't prove a darn thing." She discovered the different timespans by examining 1,450 exonerations listed on theNational Registry of Exonerations through Oct. 20, 2014. Perez conducted the research for Safer-America.com, a consumer research group. The findings are based on what is probably only a fraction of all exonerations. There are likely cases that didn't make it onto the national registry, and there are almost certainly more wrongly convicted people still waiting to clear their names. The registry didn't collaborate with Perez, but one of its researchers reviewed Perez's work at HuffPost's request and approved of her methodology.

"I'm not surprised by the numbers," said Sam Gross, the exoneration registry's editor and a University of Michigan law professor. "The main thing we can say is that it's very hard to know what it means." Perez, Gross and others cautioned against jumping to conclusions about the findings. Without further research, they said, no one knows if the results were caused by a biased criminal justice system or other factors. The Innocence Project looked at a smaller set of 212 cases in which DNA proof freed their clients. (The national registry includes exonerations due to other contributing factors like false confessions and perjury.) The project found a similar racial disparity, with black inmates serving 14.3 years before being exonerated compared to 12.2 years for all other racial groups. "These two numbers are statistically different, suggesting that the difference between them isn't due to chance," Innocence Project research analyst Vanessa Meterko told HuffPost. "It's notable, but it's hard to say what the difference is."

Unannounced Inspection of HMP/YOI Peterborough (Women)

Privately operated by Sodexo Justice Services: HMP and YOI Peterborough managed the women it held well overall, but needed to improve work and training opportunities. The 318 women held presented a wide and complex range of needs and this was a challenge to manage. About one in four women were unsentenced and about one in six were serving sentences of six months or less. The prison held 30 women serving indeterminate sentences for public protection or life sentences. The women ranged in age from 18 to 70. Half said they had children under the age of 18. Forty-four per cent had a problem with drugs when they arrived at the prison and 26% had a problem with alcohol. Over half the women reported an emotional wellbeing or mental health problem, significantly more than at similar prisons or at the time of the last inspection in 2011. Nearly a third of women arrived feeling depressed or suicidal. It was therefore an achievement that the prison was generally safe for most women held.

Inspectors were concerned to find that: - women often had long waits in court cells and on vans before disembarking at the prison, as the men were dealt with first; - Forty-four per cent had a problem with drugs when they arrived at the prison and 26% had a problem with alcohol. - The number of disabled women, and those in prison for the first time, had significantly increased - some women reported being victimised by other prisoners and staff; - the proportion of female staff was too low; - some elements of security were overly risk averse and the use of strip-searching was greater than inspectors have seen elsewhere; - some very vulnerable women were segregated without the exceptional reasons to justify it; - there was no specialist provision for those with a combination of complex needs and challenging behaviour; - the purpose of the in-patient unit, where women with mental health problems were held, was unclear; - health care provision was mixed; - educational achievements, particularly in English and maths, were not good enough. - Inspectors made 68 recommendations

Inspection 16/27 th June 2014, Published, 31/10/14

Jeremy Bamber - Difficult First Steps Towards Proving Your Innocence ...

On the 29th Anniversary of Jeremy's conviction he talks about the difficulties in proving your innocence. Innocence Projects, the Criminal Cases Review Commission (CCRC), lawyers and MP's as well as the media face that first hurdle of whether the case before them is a genuine Miscarriage of Justice or not. A cursory review is all that can be done in the first instance, which probably won't reveal anything to help supporters get to the truth. My experience over twenty nine years of listening to fellow prisoners protest their innocence has left me with no special insight into how to sift out those who are trying it on and those who are not. If I like the person then it plays a huge part on whether I believe them or not.

My point being that if I cannot tell face to face and with my years of experience, then the CCRC and Innocence Projects et all, have even more difficulty as they have to rely on a letter or two and a quick review of the evidence upon which to make a decision. This has meant the cases chosen to be supported by these organizations are often ones where there isn't much evidence to sustain the conviction. The CCRC does sometimes investigate complex cases but it is only a matter of time before they drown under the paperwork and bail out. At least, that's how my experience has been. Other organizations don't have the resources to take on those kinds of cases either.

The 'cure,' which was promised in the guise of the CCRC in 1997, has allowed the real problems to remain unaddressed. Broadly speaking the current court process, juries, poorly financed Legal Aid, an over stretched Crown Prosecution Service, combined with a results driven police force all play a part in Miscarriages of Justice happening in the first place.

A fixed, amended and overhauled system would prevent innocent people from being wrongly convicted, and both barristers and solicitors know what needs to be done but it's as if tradition and protocol prevent those who know from speaking out and the voice of high profile figures in this field would help. There is also a distinct reluctance for many organizations and legal workers to embrace social resources and other forms of media, which could raise awareness of the cause. Miscarriages of Justice have a late 20th Century feel, with most of the population picturing the release of innocent people photographed in the 1980's and 1990's, but the problem is as real and persistent today as it ever was. Wrongful convictions continue to affect many young people from diverse cultural and social groupings but they remain something that is considered a rarity or a thing of the past.

I have my own ideas on how to improve the trial process, which is always weighted in favour of the prosecution from the outset; it is unlikely anything much will change for the foreseeable future. This means Innocence Projects, the CCRC and other Campaign Groups will be needed for many years to come. The trick will be to ensure that their finite resources are put to best use. Because of the lack of specialist legal help available to prisoners maintaining innocence, in the first instance, prisoners need to self prepare work. Many prisoners will have limited help from others on the outside who might lack any legal expertise, time, money, or access to evidence and resources themselves. Some people who are innocent inside have no one on the outside.

There are valuable voluntary organizations like Miscarriages Of Justice Organization (MOJO) who offer an unbiased platform to tell people about your innocence but without having done the groundwork before contacting these people all you have is a pen and a piece of paper to say, "I'm innocent but I don't have any evidence to prove I am." Not many people will believe the word of someone convicted of a serious crime without any evidence to support their claim. It's this first rung of the ladder which most wrongly convicted prisoners find difficult to get a foothold upon.

Jails have almost no facilities for use by prisoners and unless you have an appeal pending you cannot have access to a computer resource. It's catch twenty-two because without facilities to

Major Defeats for Governments Judicial Review Reform in the Lords

Widely – and quickly – reported as a "crushing" or an "emphatic" defeat – in a rare turn – the Government was last night defeated in three consecutive votes on its proposals to restrict access to judicial review. With a 'hat-trick' of blows, on three crucial issues, votes on amendments tabled by Lords Pannick, Woolf, Carlile and Beecham were decisive. On the proposal to amend the materiality test – the Government lost by 66. On the compulsory disclosure of financial information for all judicial review applicants, and again on the costs rules applicable to interveners, the Government lost by margins on both counts by 33. A fourth amendment to the Government proposals on Protective Costs Orders – which would maintain the ability of the Court to make costs capping orders before permission is granted – was called after the dinner break, and lost. The detail of the Government proposals to restrict judicial review has already been considered at some length. However, the latest debate and the votes are important, not just for the number of Peers voting or the number of consecutive defeats:

Who voted? Notable contributions by former Supreme Court justices, Lord Chancellors and Lord Chief Justices should not be ignored. In opening the debate, Lord Woolf stressed the particular importance of judicial review in the UK, with our unwritten constitution: We are dealing here with the residual remedy of citizens to deal with their fear of unlawful action by the Executive; that is what we are dealing with in most cases of judicial review. That being so, I suggest that the discretion of the judge to examine the position of the Government, the position of other public bodies and the position of the citizen, and then in accordance with the facts of each individual case decide whether it is appropriate to give relief and what relief should be given, is extremely important.

Lord Phillips' contribution was short, but powerful: "[I]f those in this Chamber who were opposed to these amendments at the start of this debate have not been converted by what they have heard, nothing that I can add is going to convert them. I simply say … that Parliament did not create judicial review; the judges did. It was, I hasten to say, before I became a judge and was one of the best things that our common-law judges have ever done. These amendments are designed to ensure that Parliament does not damage that which the judges created, and they deserve the support of this House."

However this wasn't a debate limited only to the Lords' lawyers. Heavyweight contributions came from all quarters. Baroness Campbell – a former EHRC Commissioner and a cross bench Peer said: "I know—I really know—what disabled people experience on a daily basis. I do not need to remind the House that when public authorities get it wrong, my God, they get it wrong and it has devastating effects on the individual. It hits disabled people particularly hard because they are the most in need of taking public authorities to court to get justice for their services—the services that they rely on to survive and live. They are absolutely, disproportionately dependent on public services and judicial review. As I said before, I have never known judicial review to be abused by disabled people or the charities that support them."

Crucially, those voting against the Government included rebels from both the Liberal Democrat and Conservative benches. Lord Marks, from the Liberal Democrat benches saw: "Part 4 as a serious infringement of the right of the citizen to challenge unlawful action by the Executive before the courts and thus, frankly, as an assault on the rule of law…This part of the Bill aims to choke off challenges to unlawful action by the Executive. I fear that, if enacted, it will achieve precisely that."

Former Ministers spoke from all three benches. Lord Deben – John Gummer – stressed the practical and constitutional reasons for candour and caution on the reform of judicial review: "I speak today because I think the judges are entirely right, and the concern that I have is a concern for

in 1972 – "lifer needs help" – drew a response from the playwright David Halliwell, who gave him both help and encouragement.

Two of Thatcher's plays, The Hundred Watt Bulb and The Only Way Out, were subsequently staged professionally, the latter by the Royal Court. In 1974 he placed another ad in the New Statesman asking if anyone would like to visit a lifer who was an aspiring dramatist and artist. A single English teacher called Val, with a young daughter, responded and visited. They fell in love, married in 1980 and are still together more than 30 years later, living now in County Kerry in Ireland. Val writes in an epilogue: "We have finally managed to find peace and contentment." The tale is a timely reminder of an era when, as Geoffrey Robertson says, juries tended to believe what they were told by the police and prosecution, and were disinclined to think that anything untoward could have happened. It is a valuable contribution to the literature of miscarriages of justice.

Record Number of Prison Deaths 'Due to Cuts and Overcrowding' *Oliver Wright*

The number of people dying in prison has risen to its highest level since records began more than 30 years ago, figures released by the Ministry of Justice show. At the same time, serious assaults on prison staff have soared by 54 per cent in two years, while prisoner-on-prisoner violence has also risen sharply. The figures come after the chief inspector of prisons, Nick Hardwick, warned that a lack of resources, a rising prison population and Government policy pressures were resulting in a "rapid deterioration" in the safety of prisoners.

The statistics reveal that 235 prisoners died in the 12 months to the end of September 2014 – a 19 per cent increase on the previous year. Suicides rose by 38 per cent during the period – from 63 to 87 – while self-harm rates among male prisoners have risen by 52 per cent since June 2005. The number of assaults on prison staff rose by 12 per cent to 3,427 in the 12 months to the end of June 2014 – an average of more than nine assaults per day. Serious assaults accounted for 395 of these incidents – up from 300 during the previous year. There were three apparent homicides in prisons in the 12 months to the end of September 2014.

Frances Crook, chief executive of the Howard League for Penal Reform, blamed the rise in prison deaths and self-harm squarely on the Government. "Ministers must be held accountable for the decisions they make," she said. The lethal cocktail of drastic staff cuts, introduction of spartan regimes as part of the incentives scheme, gross overcrowding and rising prison numbers are the cause of violence and self-injury. I have never seen a public service deteriorate so rapidly and so profoundly as has happened in prisons in the last year. Government policy is putting public servants and the public in danger. Ministers have responded by sticking their fingers in their ears and singing. That has to change."

Earlier this month, Nick Hardwick said the spike in suicides and the rise in violence and self-harm could not be attributed to a single cause. But he added: "In my view, it is impossible to avoid the conclusion that the conjunction of resource, population and policy pressures, particularly in the second half of 2013-14 and particularly in adult male prisons, was a very significant factor. At its worst, overcrowding means two prisoners sharing a 6ft by 10ft cell designed for one, with bunks along one wall, a table and chair for one, some shelves, a small TV, an unscreened toilet at the foot of the bunks, little ventilation and a sheet as a makeshift curtain. A few prisoners might spend 23 hours a day in such a cell."

But the Prisons Minister Andrew Selous claimed prisons were less overcrowded than they were under the last Government. "We have managed major organisational change in the last year to create significant savings for the taxpayer and have always ensured that we have enough staff to deliver decent and safe prison regimes," he said. Every self-inflicted death is a tragedy, and we make strenuous efforts to learn from each death."

get to appeal you can't have access to many facilities to get you there. Law books in libraries are not allowed to be taken back to prisoners cells and can only be used during library times, which might be limited to two fifteen minute sessions each week or an hour pre booked once every three weeks. They are able to order books from non-specialist, local libraries which takes weeks and is simply not going to have the resources required. Similarly, prisoners cannot have books sent in to them. Prisoners can buy books from a specific resource but law books often run into hundreds of pounds which even law students on the outside have difficulty in financing.

If anyone reading this has ever done casework they will know all about the painstaking, meticulous number of hours that go into researching. No one will work harder than the innocent prisoner in this process. The range of books in the library is very limited; you won't find the latest books by Michael Naughton or guidance on preparing your casework. Computers should be available for legal work with printing facilities, as well as software packages, which allow prisoners to prepare case material. Access to a broad section of Internet resources, or databases listing forensic scientists, human rights lawyers and their case histories, should be made a priority.

Also, understanding how other prisoners campaign should be pooled into one resource and updated at least every six months. On line resources in an intranet style should be allowed online so that various law schools, and law libraries can be accessed enabling those who can help and those who need help to be joined together. All this needs policy change at head office, as it is not the fault of individual prisons, just the rules laid down by a higher force. As it stands today all prisoners are allowed is very limited quantities of our case papers, A4 paper and a biro. Facing the world with nothing but a pen and paper in the twenty-first century after all the lessons we should have learned is crushing for an innocent person.

There is no one readily accessible with experience to help or guide you on how to make a submission or plea for help other than written guidance from the CCRC if requested. You cannot make contact with anyone over the telephone without prior permission and this process can take a month and even then your clearance is to a specific person on one number. You can only telephone someone if they first agree to accept calls from you, therefore you cannot call around to find a lawyer speculatively.

In effect, there is no equality of arms. A prisoner who has been wrongly convicted and who cannot read or write has no possible way in which to seek help for a new appeal. In the high security prison system about 50% of prisoners have real difficulty reading or writing. So how does this group of prisoners obtain even a cursory review of their case? A structure needs to be put in place to help them. The adversarial system is still extraordinarily difficult for even the most resourceful, educated, experienced prisoners to obtain help to fight their case for innocence.

It is never going to be possible to unearth a Miscarriage of Justice without a case undergoing a really thorough investigation. If police corruption is the cause of a wrongful conviction (and it is frequently the cause), then it will be well covered up and very hard to detect without meticulous and painstaking attention to case papers and evidence. Police officers know the system better than anyone and are best placed to disguise any wrongdoing, and in the event of transparent mistakes, the errors are ignored and covered up by superiors to maintain public faith in the justice system as a whole. A scant review, which most cases initially receive, has no chance of uncovering these causes of Miscarriages of Justice.

Disclosure of all case material must happen pre-trial and be given to the defendant personally, not simply made available for a solicitor to look through on a couple of afternoons at some random police station. If Public Interest Immunity has been used then the defendant should know it has been

used and why. Obviously in some cases this couldn't happen, but for most cases and for most of the time there is no excuse for this blanket secrecy and this should be changed.

There needs to be real help with sensible funding for the prison system to support those inmates maintaining innocence. Allow law schools entry to prisons and allow those maintaining innocence to use computers and access to those who can help via telephone, Skype and on line. Allow Innocence Projects and other advocates to come into prisons and give talks, interview prisoners and give advice directly.

Set up extensive law libraries on line or via a database to give access to up to date books, keeping the cost low and a reduction in the physical space for books. Prisoners who are innocent could find out the latest legal rulings and learn how to fight for themselves and these Miscarriage of Justice cases have a greater opportunity to present their position to the CCRC, Innocence Projects or even their own lawyers.

Changing Home Office policy to alter how prisons deal with prisoners maintaining innocence is going to be challenging but not beyond the abilities of highly skilled and experienced Prison Governors, who could advise and guide head office on finding the best way forward. Until changes happen, many innocent people remain in the dark about how to help themselves in a system which does not afford lawyers to carry out thousands of hours work, and requires the prisoners to do most of it themselves.

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Sexual Offences Prevention Order's - Can They be Quashed? *Swain & Co Prison Law*

If you are serving an Indeterminate Prison Sentence (IPP) for sexual offences, you may have received one of these orders when you were sentenced. These orders mean that you will have certain Court ordered conditions on your release and if you breach any of these conditions, you will have committed a criminal offence which could result in a further sentence.

You may wonder why you have a SOPO order in place with certain conditions when you will be on licence for at least 10 years after your release! This is what has been debated in case law and the case of R v Smith & others [2011] EWCA Crim 1772 decided that "…No SOPO is needed if it merely duplicates such a regime…" and "In both R v Bolton [2010] EWCA Crim 1177 and R v L [2010] EWCA Crim 2046 this court expressed the view that generally a SOPO would not be appropriate, because it is unnecessary, if an indefinite sentence is being imposed. Rather, it was said, the court should leave the prevention of further offences to the fixing of licence conditions…"

This case does not create an absolute ban on having both a SOPO and an IPP sentence, but it certainly brings this issue into question and you would be justified in considering making an application to have the SOPO removed. To do so, you must make an application to the Court of Appeal to appeal the SOPO. Legal Aid is available for this and the firm has several cases in the Court of Appeal at the moment for prisoners in this situation and so you should contact us as soon as possible so we can represent you.

You may wonder why you should bother challenging the SOPO when this won't affect you until you are released. If you don't comply with your SOPO you could be committing a criminal offence and given another custodial sentence. Why have this added pressure on top of everything else when you are released! So don't delay, if you have are an IPP sentenced prisoner and you have a SOPO please contact us so that we can advise you!We have a specialist Prison Law team who can assist all IPP prisoners with their end of tariff and post tariff parole reviews and oral hearings.

Woman Arrested After Getting Stuck in Chimney

Genoveva Nunez-Figueroa has been rescued and then arrested after getting stuck in the chimney of a house of a man she reportedly met online. Firefighters in Ventura County, California, who responded to a report from a neighbour of a woman crying, had to chisel away much of the chimney and lubricate it with washing up soap to free her.

The 30-year-old was arrested on suspicion of illegal entry and giving false information to police, according to the Ventura County Star. Police say she knows the owner of the home in Thousand Oaks, who was not there at the time, but they did not elaborate further. However, media reports say she had met the man online and had been on a number of dates with him. The man told ABC 7 Los Angeles he had gone on a "few" dates with Nunez-Figueroa but had recently ended the relationship. "I'm going to be a little more cautious of who I invite into my house now," Lawrence, who did not want to reveal his last name, told the television station.

Nunez-Figueroa had no clear injuries, but was taken to hospital for evaluation. Ventura County fire Captain Ron Oatman said firefighters destroyed the chimney and damaged the roof during Sunday's incident. The woman's family have offered to pay for the damage.

Fitted Up, and Brought Back to Life *Duncan Campbell, Guardian*

It is more than 50 years since a Co-op worker, Dennis Hurden, was shot dead in a botched robbery in Mitcham, Surrey. One of the four men convicted of his murder, George Thatcher, was initially sentenced to death and ended up serving 18 years for a crime he has always claimed he did not commit. Now he has written his story, Fitted Up, and brought back to life what has been regarded by campaigners for many years as one of the great unresolved miscarriages of justice.

Thatcher was born in 1929 in Farnham in Surrey, spent time in care and left school at 14. He was in trouble as a teenager, breaking into a wine warehouse on a spree and then graduating to taking lead from deserted houses, stealing cars and eventually jewels. By the age of 17 he was in borstal and already on the way to becoming a career criminal. He recounts the progression from petty villain to hardened safe-cracker, a specialist in breaking into the safes of cinemas. He lived the classic criminal life, spending his ill-gotten gains in West End clubs and always planning that one big job that might just possibly give him another life. His first wife left him and emigrated to the United States with their son while he was serving an early sentence.

Then in 1962 came the Mitcham Co-op Murder, as it became known. His name was put up by a co-accused as the person who had pulled the trigger and, although the same man later retracted the allegation, Thatcher was tried at the Old Bailey and convicted. The evidence against him was essentially his co-accused's retracted claim and the supposedly incriminating remarks that the police claimed he had made on arrest, remarks that would not have been admissible in court today. He was represented by the late Christmas Humphreys QC and felt he was badly let down by him. He quotes from Humphreys's own autobiography, Both Sides of the Circle, in which the barrister expresses his preference for prosecuting on the grounds that "witnesses called by the prosecution are generally telling the truth as best they may and the prisoner is generally guilty". This, felt Thatcher, explained the lacklustre way he was defended.

His later experiences of the law were happier: he was represented for a while by the late Bernie Simons, of whom he writes fondly, and the book carries an endorsement from Geoffrey Robertson QC, who speaks of a time in the 60s when "judges were hostile and defence lawyers could not care less". Inside, his fellow prisoners included train robber Ronnie Biggs and "Mad" Frankie Fraser. He started writing and an ad he placed in the New Statesman