can help them turn their back on crime and become productive members of society," he promised.

The Howard League questions how often girls and younger boys will be able to access the facilities on the main site if they are fenced off for their own protection. "I fear that in a decade the government will be left wondering why so much money was invested in such an ill-informed project," said Enver Solomon, director of evidence and impact at the National Children's Bureau. There are suggestions that the Lib Dems are having doubts about the decision to include girls and younger boys in the colleges.

Plea Bargaining – An Effective Tool for Prosecutorial Abuse of Power

"97 percent of federal convictions and 94 percent of state convictions are the result of guilty pleas." (USSC, Missouri vs. Frye, 2012) Think about that for a minute — 19 out of 20 criminal cases never-go-to-trial. These cases are disposed of through a guilty plea that resulted from a plea agreement. The defendant never gets a trial, and goes directly to jail.

It's called "plea bargaining," but there is little-to-no actual bargaining that takes place. A plea offer can be made even before the case goes to a grand jury, and the defendant has no idea how strong, or weak, the prosecutor's case might be. The prosecutor has a very, very long list of often-overlapping charges that can be "stacked" to build a breathtakingly long anticipated sentence, which he can use to "bargain" (read threaten) with the defendant. And the ability to "stack" is further augmented for charges that carry mandatory minimum sentences. It's pretty much a "take it or leave it" deal. The ONLY bargaining power the defendant has is to refuse the plea offer, forcing the prosecutor to take the case to trial. This is the genesis of the so-called "trial penalty," which has been well covered on this blog here and here. The defendant can take whatever the prosecutor offers, or expose himself to an exceedingly long sentence at trial.

In accepting a plea agreement, the defendant obviously gives up his constitutional right to a jury trial, but he may also have to give up his right to appeal, or to file civil suit, or to even talk about the case. And then once convicted of a felony, there is a whole list of other collateral consequences as well.

Venezuela: 35 Deaths in Prison Protest

On November 24th 2014, inmates at the Uribana prison went on a hunger strike over prison conditions and mistreatment of prisoners and their family members. A group of inmates reportedly took control of the institution's medical facilities during the protest and, according to official sources, 35 inmates died and 145 became ill from drinking alcohol and ingesting drugs stolen from the prison pharmacy. Twenty are in a coma, officials said. However, the Venezuelan Prison Observatory, a local nongovernmental organization, reported that family members said many inmates were allegedly poisoned by food and water prison guards gave them during the protest.

Hostages: Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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

MOJUK: Newsletter 'Inside Out' No 506 (04/12/2014)

98,565 Persons Behind Prison Bars in the UK @ 30th September 2014

Scottish Prison Population @ 30th Setember 2014 - 7,750
N. Ireland Prison Population @ 30th Setember 2014 - 1,803
England/Wales Prison Population @ 30th Setember 2014, 85,634
Indeterminate Sentence for Public Protection
Tariff expiry date not passed: 1,368 - Tariff expiry date passed: 3,633
Lifers (all variations):
Tariff expiry date not passed: 4,745 - Tariff expiry date passed: 2,542
Immigration Detainees @ 30th Setember 2014, 3,378

A Further 18,166 persons subject to The Mental Health Act ('The Act') were detained in hospital, private & public on longer term hospital orders.

Bringing to 116, 731 the number of persons incarcerated in the whole of the UK

James Brokenshire: Wants to bring the number of places for Immigration Detainees to 5,000

Grayling's Prison Regime Goes On Trial - and Is Found Guilty *Politics.co.uk*

Last October, 11 inmates in HMP High Down, a category B prison in Surrey, launched a protest about their conditions. Initially they refused to return to their cells, then they barricaded themselves into one of them. When told to stop, they responded: "Fuck off, we want our association, we are not going behind our doors." Over the next seven hours the authorities tried to coax them out. The prisoners slipped a note under the door saying: "The reason for these capers is we are not getting enough food, exercise, showers or gym and we want to see the governor lively." It added: "[We're] not getting any association and [we're] banged up like kippers". A little later - it seems they were just having fun at this point - they said they would leave the cell if they were given mackerel and dumplings. But in general their complaints were about a deterioration in the prison regime and the dismissal of complaints by management.

A senior officer tried to speak to the men. They replied: "We don't want to speak to the monkey, we want to speak to the organ grinder." After a few hours a Tornado unit - the officers sent in to break up riots and protests at prisons and detention centres - were brought in and that was the end of that. Usually these types of protests are treated as internal disciplinary procedures. Serious ones usually see an independent adjudicator come in who can add up to 28 days to prisoners' sentences. But here, the Crown Prosecution Service (CPS) did something unusual. It charged the 11 men with mutiny.

This very serious charge carries a maximum of ten years imprisonment on top of whatever sentence the inmate is already serving. It requires that prosecutors demonstrate prisoners engaged "in conduct which is intended to further a common purpose of overthrowing lawful authority in that prison". It's rarely used. As the vital prison blogger Alex Cavendish points out, the CPS' own guidance says: "In many circumstances, confirmation of disciplinary proceedings will make a prosecution for prison mutiny, or other substantive offences, unnecessary".

There is a suspicion among observers that the Ministry of Justice (MoJ) put pressure on the CPS to take the case to court in order to set an example to other prisoners considering protest as a way of expressing their anger at the prison crisis. There is no evidence for this, except

for the peculiarity of the case and the rarity of the decision to bring charges in court. As one defendant's lawyer said: "Despite their actions being a protest against conditions at the prison, the police and CPS chose to charge our client and his co-defendants with prison mutiny, a very serious charge leading to additional custodial time if convicted."

The financial cost was significant. All 11 men needed legal representation. The trial ran for three weeks and prosecution costs included required funding for police and the CPS. The total bill will be in the hundreds of thousands. Politically the cost was more severe. The case became a public forum for the reality of the prison crisis to be laid bare.

Censorship of prisoners and former prisoners prevents many of the details of the deterioration in the prison estate from becoming public. But now it was all being discussed in open court, not least by the governor himself. The mainstream press ignored the story, but the local paper, the Sutton Guardian, provided excellent coverage. Rather usefully, it is also Chris Grayling"s local paper.

High Downs had been going through the same process as many other prisons across the country. Grayling has encouraged the courts to send more and more people to jail but he continued with cuts to the funding for the service, resulting in dangerously low staffing levels. This makes it impossible for guards to maintain the personal relations with prisoners which order relies on. It also means prisoners spend all day locked up in their cells, without enough guards to take them to the library, the gym, or even the showers. It has been very well documented by the chief inspector of prisons, independent monitoring boards, a handful of concerned journalists and penal reform groups, but Grayling refuses to accept it is a problem.

Earlier this year, an independent monitoring board report found services at the prison had been "pared to the bone and beyond", prompting safety fears, keeping inmates locked up in their cells and making rehabilitation all but impossible. By the time prison governor Ian Bickers, the "organ grinder" inmates had originally wanted to talk to, took to the stand, those reports were confirmed. According to media reports and the account of lawyers, he outlined the pressures prisons faced because of a Whitehall regime which enforces austerity.

"Over the course of the three-week trial, there were many revelations about the horrific regime in HMP High Down, and the governor of the prison even admitted that they had 'got it wrong'," the barrister said. The jury unanimously acquitted the 11 men.

One of the defence barristers, Andrew Jefferies, observed: "By its verdicts, the jury must have accepted that the defendants may have been legitimately protesting rather than intending to overthrow the prison authority." Another barrister said: "This not guilty verdict was not only a victory for the defendants but a resounding demonstration of the danger and damage caused by the cuts to the safe and humane running of the prison service."

Remarkably, former prison minister and local MP Crispin Blunt came to the same conclusion. He launched a blistering broadside against Grayling, a fellow Tory MP, in the pages of his local paper. He said: "In the light of the evidence from the governor the acquittal is unsurprising. This is reinforced by the reports of the independent monitoring board. They reflect the consequences of prison policy under the current justice secretary. I am surprised this prosecution was brought. The protest did not appear to cross the threshold of 'mutiny', which is an extremely serious offence. The failure to secure a conviction will make prisons, which are now very tautly staffed, at greater risk of disorder, with some prisoners possibly misled into thinking they have some right of protest. Chris Grayling decided, at the behest of the Prison Officers Association and public sector prison service management to find… savings from stopping the competition programme and… making staff cuts in the public sector prisons. At the same

rections. Should the bill make it into law, that provision is certain to be challenged in the courts as a potentially unconstitutional state intervention into commercial contracts. Other legal challenges are almost certain to flow over the clause that prevents the courts gaining access to key information.

Brickner, who opposed the new bill in front of a committee of the Ohio House on behalf of the ACLU, said: “It’s very unclear whether such secrecy would be upheld in a court of law. Our courts don’t look kindly on measures that stop them doing their jobs properly.” Capital punishment is currently on hold in Ohio. Following the botched execution of McGuire, the federal courts stepped in and imposed a moratorium that runs until February, to give the state time to clean up its act.

James Browne Awarded £108,491 Damages Against Metropolitan Police

Judge Coe QC said: In the circumstances therefore I consider that the Claimant Mr Browne succeeds in this claim on the basis that the search of him was unlawful by reason of the failure to give the appropriate information and secondly because in any event excessive force was used to restrain him in the convenience store. He also claims aggravated and exemplary damages in the pleading. In his closing submissions Mr Cragg QC for the Claimant conceded that exemplary damages may not be appropriate here. I agree. Referring to the case of Thompson (and Hsu) v Commissioner of Police of the Metropolis [1998] 1 QB 498 at page 516 C-D, it seems to me that PC O'Leary did behave in a high-handed and/or oppressive manner for the reasons I have set out above and that an award of aggravated damages is appropriate. This was not a "simple momentary error of judgment" as in Miller v The Chief Constable of Surrey Police (transcript 22.1.2013). I should be careful however not to give the Claimant any element of double recovery and in the circumstances the award of aggravated damages is in the sum of £5,000.

Girls & Younger Boys ‘Will be at Risk in Mass Secure Units for Juvenile Offenders

Controversial plans that would see children “warehoused” in a new generation of large-scale secure colleges for juvenile offenders will be confirmed on Monday 1st December 2014. Peers in the House of Lords had tabled amendments to the criminal justice and courts bill so that the colleges would exclude boys under the age of 15 and all girls. But the government will reject the amendments when the bill goes back before parliament. The move will dismay prison reform groups, who are concerned by plans to create large units capable of holding up to 320 offenders, including girls and boys aged between 12 and 17. The government believes the colleges will provide a more healthy environment for young offenders, one that is more like a school than a prison, and stresses that girls and younger boys will be protected because they will be held in separate, fenced-off blocks.

However, an alliance including the Howard League for Penal Reform and the Prison Reform Trust claims the colleges pose “serious and unprecedented safeguarding risks”. Opponents point out that last year 95% of youngsters in custody were male and 96% were aged 15-17. In a secure college, this would see around 16 girls and 13 younger boys incarcerated with 291 older boys. “No child should be kept in a 320-bed warehouse, but particularly not the most vulnerable,” said Penelope Gibbs, who chairs the Standing Committee for Youth Justice. “Girls and younger children need small, family-like secure homes where they know the staff and other children and feel safe. The numbers of children in custody have come down so significantly [that] the secure college is hardly viable. It looks as though they are only including girls and younger children in order for the sums to stack up.”

Justice minister Andrew Selous said the colleges would provide a pioneering approach to youth custody, with education at the centre. “By moving away from the traditional environment of bars on windows and giving these young people skills, qualifications and self-discipline we

association [the term used for anyone falling foul of the regulations], they are committing a criminal offence punishable by up to six months in prison and/or a fine. There are a number of important issues that still need clarification... One of these is the definition of childcare in relation to schools... It seems, for example, that … clubs that could be considered child-care are such things as breakfast clubs and after-school clubs, which simply offer a form of child-minding facility." Other clubs, such as music or sporting activities, are likely to be exempted.

However, Ms James said: "It could, for instance, cover a teenage son who gets into fisticuffs on a Saturday night and accepts a police caution as a result." Those identified can apply for a disqualification waiver – but they will face suspension while they are waiting for a verdict. Other staff, it is argued, may be reluctant to bring to life a conviction of a family member in the distant past or be nervous about asking colleagues in a flat-share whether they have a criminal past. Headteachers say they were only told the legislation applied to schools just before the last half-term break.

A Department for Education spokeswoman said the legislation was not "new", adding: "The disqualification criteria apply to all staff in schools who work in early years provision and childcare provision such as breakfast clubs and after-school care for children up to the age of eight. Schools and governing bodies should use their judgement in deciding which staff are covered and we have recently provided further information to help them understand the requirements."

Ohio Republicans Push Law to Keep all Details of Executions Secret *Guardian*

Republican lawmakers in Ohio are rushing through the most extreme secrecy bill yet attempted by a death penalty state, which would withhold information on every aspect of the execution process from the public, media and even the courts. Legislators are trying to force through the bill, HB 663, in time for the state's next scheduled execution, on 11 February. Were the bill on the books by then, nothing about the planned judicial killing of convicted child murderer Ronald Phillips – from the source of the drugs used to kill him and the distribution companies that transport the chemicals, to the identities of the medical experts involved in the death chamber – would be open to public scrutiny of any sort.

Unlike other death penalty states that have shrouded procedures in secrecy, the Ohio bill seeks to bar courts from access to essential information. Attorneys representing death-row inmates, for instance, would no longer be able to request disclosure under court protection of the identity and qualifications of medical experts who advised the state on their techniques. "This bill is trying to do an end run around the courts. When things aren't going well, the state is making its actions secret because they don't want people to see them screwing up," said Mike Brickner, senior policy director of the American Civil Liberties Union (ACLU) in Ohio. The draft legislation, framed by Republican state lawmakers Jim Buchy and Matt Huffman, has passed the state House of Representatives and now goes before the Senate. Republican leaders, backed by Ohio's attorney general, Mike DeWine, want to ram it through by 17 December.

The move to erect a wall of secrecy is particularly alarming in Ohio, a state that has experienced no fewer than four botched executions in the past eight years. The most recent was the 26-minute death of Dennis McGuire in January, using an experimental two-drug combination. Eyewitnesses reported him gasping and fighting for breath. The most notorious incident was the 2009 attempted execution of Romell Broom, which was called off after two hours after officials failed to find a vein.

One of the most contentious aspects of HB 663 is that it tries to break a boycott that has been placed on sales of lethal injection drugs from foreign manufacturers, following a 2011 ban by the European Commission. The bill seeks to undermine strict distribution controls that have been introduced by companies such as Lundbeck in Denmark, a major manufacturer of pentobarbital, by declaring void any contract that prohibits distribution of the drugs to the Ohio department of cor-

time his message to the courts has been unambiguously robust and this has seen a rise in the number of offenders being sent to prison. This has exacerbated the problem." We don't know why the CPS decided to bring the charges. And we obviously don't know why the jury came to the conclusion that it did. But it is hard to resist the idea that this was an attempted clampdown on prison protests over deteriorating standards. If so, it could not have gone more wrong.

A Prison Service spokesperson said: "Disruptive behaviour has no place in prison and we take swift and robust action against anyone who attempts any kind of disorder. All serious incidents are referred to the police for prosecution. We will closely consider next steps after the verdict."

Eleven HMP High Down Prisoners Cleared of Mutiny *Source Epsom Guardian 20/11/14*

Following the acquittal of 11 prisoners accused of mutiny, a former Tory prisons minister has attacked Chris Grayling's prison policy and warned the verdicts could spark unrest in other jails. The men were cleared by a jury this morning Thursday 20th November 2014 of staging a mutiny at High Down in Banstead last October after Government cuts sparked an uprising among inmates.

Banstead's MP, Crispin Blunt, who was the prisons minister until September 2012, said: "In the light of the evidence from the governor the acquittal is unsurprising. This is reinforced by the reports of the Independent Monitoring Board. They reflect the consequences of prison policy under the current Justice Secretary. I am surprised this prosecution was brought. The protest did not appear to cross the threshold of 'mutiny', which is an extremely serious offence. The failure to secure a conviction will make prisons, which are now very tautly staffed, at greater risk of disorder, with some prisoners possibly misled into thinking they have some right of protest. They don't and their interests will be best served by helping their prison regime help them make the best of their time in prison."

During the three-week trial at Blackfriars Crown Court the prisoners claimed they were protesting against Ministry of Justice (MOJ) cuts when they barricaded themselves in a cell for seven-and-a-half hours on October 21 and 22 last year. The court heard their demand note, which was passed under the door, read: "The reason for these capers is we are not getting enough food, exercise, showers or gym and we want to see the governor lively." Prison governor Ian Bickers told the court during the three week trial that the prison moved from serving two hot meals a day to one, prisoners spent more time locked up and staff numbers had dropped.

Earlier this year a damning report revealed a prison "pared to the bone and beyond" where staff cuts had sparked safety fears, undermined rehabilitation and left prisoners in their cells for long periods. The report, by the Independent Monitoring Board (IMB), described 2013 as "a dreadful year" and said many changes had produced an "unhappy prison". Its findings mirrored complaints to this newspaper this year by worried ex-officers and relatives of prisoners - although the Ministry of Justice repeatedly denied the prison was in crisis.

Concerned about what was going on Mr Blunt visited the prison himself in May. Afterwards he said: "The prison appeared to be settling down after a difficult period, to a new and more tightly staffed regime. I haven't heard anything to contradict this." Speaking about prison policy today, Mr Blunt said: "Previously the ambitious savings targets were being found by putting prisons out to competition. This was paralleled by rhetoric around sentencing that was accompanied by a drop in offenders being sentenced to custody and a greater focus on rehabilitation and work in prison. Whilst every prison is different it was my experience after over 70 prison visits that the private sector prisons were overall significantly more efficiently run. As far as rehabilitation of offenders is concerned they generally had more imaginative regimes and a greater commitment to meeting my objectives of getting prisoners put to useful work inside prison." This programme would have been expanded

under Ken Clarke. Instead Chris Grayling decided, at the behest of the Prison Officers Association and Public sector prison service management to find the savings from stopping the competition programme and just making staff cuts in the public sector prisons. At the same time his message to the courts has been unambiguously robust and this has seen a rise in the number of offenders being sent to prison. This has exacerbated the problem."

An MOJ spokesman said: "Benchmarking is by far the best means of delivering value for money for the public purse. Alongside contracting out of facilities management and works it is on track to deliver efficiency savings of around £175m by 2015/16. This is whilst ensuring that public sector prisons can operate, safely, decently and securely. We will always have enough prison places for those sent to us by the courts and have opened 2,500 new places in the past two years, with a further 2,000 places due to open in the coming months. We intend to continue to identify ways to deliver purposeful activity in prisons, so that people have the best chance of not reoffending. That includes increasing the number of hours of work being done each year in our prisons by about 2.5 million, and we will to continue to do that."

G4S: Coalition 'Undermining' Prison Chiefs' Ability To Govern Effectively

Britain's biggest private jail management company, G4S, has warned MPs that the heads of prisons are being "undermined" by government policy. G4S say governors must have control of areas such as healthcare, education and training so that they are "responsible and accountable for everything that goes on within their prisons". The company is concerned that governors do not have powers to change these aspects, which are core as they can affect inmates' moods and rehabilitation.

A prison source added: "The concern is that more levers are being taken away from the person in charge." The warning is made in a G4S submission to the Justice Committee. It says: "This [policy] is serving to undermine the ability of prison governors to govern effectively… Good governors should be allowed to govern." A Ministry of Justice spokesman said its policy was the best way of "tackling our stubbornly high reoffending rates".

Lord Ramsbotham Speaks Out Against Grayling Over Prison Suicide Crisis

'Chris Grayling seems to think the private sector is the solution to this avoidable chaos afflicting prisons. His mantra of payment by results has left no one responsible for judging what's working and what has failed,' said Lord Ramsbotham last week. Delivering the annual Prisoners' Advice Service Lecture, the cross-bench peer used the opportunity to address the negative social and financial costs of the coalition government's prison policy.

'Keen' to See Prisoners Voting: Lord Ramsbotham said he had often wondered how to persuade the public of the value of protecting prisoners' rights. 'I am keen to see prisoners having the vote, except in those few cases where deprivation of the right should form part of the sentence,' he said. 'Re-enfranchising prisoners would better enable MPs to stand up for the rights of prisoners in their constituency,' he added.

Ramsbotham's comments contribute to an increasingly volatile debate about prisoners' rights that has culminated in an intractable disagreement between the European Court of Human Rights in Strasbourg and the UK Government. The Strasbourg Court has held the UK Government's blanket ban on prisoner voting to be a violation of prisoners' human rights, but recently ruled that prisoners denied the vote should not be paid compensation.

Crisis of Overcrowding and Prisoner Suicides: David Ramsbotham OBE retired from the British Army in 1993 before serving as Her Majesty's Chief Inspector of Prisons for six years. In 1999

Privatised Probation a Step Closer *Nicki Jameson, for FRFI, 27/11/14*

On 30 October the government announced its 'preferred bidders' for contracts to manage the 21 Community Rehabilitation Companies (CRCs) which were created earlier this year when the National Probation Service (NPS) was broken up into two separate entities. The reduced NPS continues to be responsible for advising courts on sentencing, conducting initial risk of harm assessments, managing prisoners and ex-prisoners deemed to pose a high risk of serious harm to the public, and running probation approved hostels, while CRCs are responsible for management of non-high risk prisoners released from custody and delivering interventions and services such as 'community payback'.

Initially both parts continued to be run by the public sector; however the aim was always to privatise the CRCs. Prior to being elected in 2010 the Conservatives made clear they would do this, and that they could do so easily because the Labour government's 2007 Offender Management Act had already replaced Probation Boards with Probation Trusts, each with its own budget and with the Home Secretary retaining power to dissolve the Trust and recommission services in the private sector.

The preferred bidders are consortia made up mainly of private multinational security corporations, such as GEO and Amey, and charities, such as Shelter or the St Giles Trust, with a few local councils and colleges for good measure. Some have wacky names, such as 'Purple Futures', while others simply describe the sum of their parts, eg 'Sodexho Justice Services in partnership with NACRO'. In addition, some other 1,000 organisations are chasing sub-contracts to deliver parts of the 'Transforming Rehabilitation' agenda. Payment to providers will partly be on a 'by results' basis, aimed at 'reducing reoffending, helping drive innovation and getting best value for taxpayers'.

This entire process is fraught with confusion: probation officers have no real idea who their new boss will be, nor prisoners waiting for release who will be responsible for their supervision. Furthermore, it all rests on the achievement of something which is impossible to deliver. Genuine 'rehabilitation of offenders' would be expensive and require provision of real jobs, decent homes and in-depth support for drug and alcohol problems, in order to create a prospect of achieving a better quality of life without crime than with it. The government cannot and does not want to achieve this; the real function of the CRCs is to add to the apparatus for policing the growing numbers of disenfranchised working class people who are sucked into the criminal justice machinery, and to do so as cheaply as possible.

Teachers to be Barred for Living With Exoffenders Under New Rules *Richard Garner*

Heads and teachers will be barred from working in schools in future if they live with someone who has a conviction for a violent or sexual crime, according to new rules. The regulations, which also cover school support staff such as teaching assistants and dinner ladies, originally only applied to child-care centres – where they have been in place for around five years. Now, however, heads have been told they will also apply to schools. Anyone providing education or child-care for children aged five or under now faces disqualification if they are found to be living with someone with a violent or sexually criminal past. They will also be barred from providing child-care for anyone aged eight or under. In each case, this would include anyone who has been cautioned for any offence of either nature. The regulations cover convictions against adults or children.

Kathy James, director of policy and campaigns for the National Association of Head Teachers (NAHT), said: "This is a sledgehammer to crack a nut." One of the biggest dilemmas for the schools will be working out who is covered by the new regulations. All infant-school headteachers, for instance, come into contact with children aged five and under, as do midday supervisors. A briefing paper on the new regulations drawn up for leaders of the NAHT says: "Should someone knowingly continue to work with or permit staff members who are disqualified by

Lord Faulks: We have an employers' forum for reducing reoffending, which is there to recruit employers who are willing to take on offenders. This is a success story; 200 offenders have been employed in the last 12 months. The story that we receive from employers is that, on the whole, ex-offenders are extremely good employees. They are grateful for the job and have a very high retention rate in employment.

Baroness Farrington of Ribbleton: Will the Minister place on record that he and the Government are satisfied with the health services provided for people in custody? Will he give the figures for prison officers and those working with prisoners in care and education? Have the numbers gone up, or have they gone down at the same time as the number of prisoners has gone up?

Lord Faulks: Responsibility for health in prisons is for NHS England. I am afraid that I cannot give the figures she seeks at the Dispatch Box but will write to her with them.

UK Close Supervision Centre System Expands

Since I first arrived on the Close Supervision Centre (CSC) system in March 2010 I have seen a distinct pattern emerge in the way the system is being operated. All possibilities of the chance to progress back to main location have been removed; even the liars in charge don't bother to pretend it can be done. Instead prisoners are encouraged to become violent at every opportunity, actually being rewarded with better facilities when this happens, including a 300% pay rise. It has become so blatant to the CSC's victims that the torture units provide no benefit for anyone on there, that almost all residents have been applying to be relocated to segregation units permanently.

It is due to this policy change, which is obviously not being advertised, that the population on the CSC has doubled in my time with new units springing up all over the high security estate. The highly criticised Exceptional Risk Unit (ERU) at Wakefield has struggled to cope with all the CSC prisoners who have given up dreaming of progression actually trying to be located a space in this hell hole. The new plan is to convert the disused Protected Witness Unit (PWU) at Woodhill into another ERU but without any of the comforts available outside of a Special Accommodation Cell (commonly known as 'the box') so extreme levels of brutality are to be expected. This is to ease the pressure of Wakefield so guys who have been sat in the same cell in Monster Mansions should look forward to the change of scenery…

All of this costs money, in fact millions of pounds are wasted every year on the CSC experiment which amounts to around five times what it would cost to maintain the prisoners on normal location. So why is all this being allowed to happen? Maybe because it was actually the current director of NOMS, Michael Spurr, who recommended the creation of the CSC system back in 1996 with the Spurr Report, prior to his rise to become head of this failing justice department.

What all this means is that whilst resources are tight, conditions on main location will continue to deteriorate in order to fund the ever-expanding CSC system. This in turn will lead to more frustration, resulting in more and more prisoners acting in a manner likely to result in their placement in the CSC, which of course will mean more and more money will have to be taken from the pot to fund the CSC experiment. This is exactly how the US Supermax atrocity began, which is actually now coming under so much pressure that it is likely to reduce in size while England holds it up as the pinnacle of imprisonment. Anyone who say the BBC2 documentary screened recently, entitled 'Life in Solitary' will have some understanding of what is coming our way, but for those living on a CSC like myself, we do not need the BBC to show us what we experience every day of our lives.

Kevan Thakrar A4907AE, HMP Woodhill, Tattenhoe Street, Milton Keynes, MK14 4DA

he issued a seminal report, 'Suicide is Everyone's Concern', after the number of suicides in prisons in England and Wales rose from 68 in 1997-98 to 83 in 1998-9. Last year saw prisoner suicides once again rising to 67, the highest rate in a decade, with 88 suicides already reported this year. Ramsbotham addressed the problem of prisoner-suicides throughout the talk, identifying the 'crisis of overcrowding' and the lack of Government strategy as key factors contributing to the trend. His comments underscore the latest annual report by Nick Hardwick, current Chief Inspector of Prisons, which found that safety concerns had increased, respect outcomes had declined, and prisoners were spending 'too much time locked up with too little to do.'

An Alternative Approach to Prisons: Lord Ramsbotham said that only people who posed a danger to society should be imprisoned, and that this was not true of the majority of prisoners in the UK. 'We have somehow succeeded in belittling community-based rehabilitation because what goes on in prisons appears to be more sexy,' he said.

The speaker criticised the 'bloated bureaucracy' of the National Offender Management Service (NOMS). 'If the Government is really concerned with protecting the public, they might decide to cut NOMS instead of getting rid of 25% of prison staff and 44% of prison management,' he said. NOMS was created in 2004 with the aim of providing end-to-end management of prisoners from first contact to completion of sentence. The Government's approach to offender management has since come under widespread criticism, however, including a 2013 report which found NOMS to be too complicated and costly and not understood by staff.

Ramsbotham lamented the Government's obsession with quantifying and measuring prisoners as a substitute for a long-term strategy. 'Everyone responds to short-term events but they are getting nowhere. People have forgotten that only people's height can be measured; you cannot accurately measure reoffending,' he said. 'The quantitative approach has sounded the death knell for too many voluntary sector organisations who simply cannot afford to wait for payment until the relevant measurement is made'.

Staff Losing Respect for Grayling: 'Chris Grayling himself is in danger of being sued for corporate manslaughter because people are killing themselves in prison on the basis of decisions he has made,' Lord Ramsbotham said. 'I don't detect that the Government are willing to accept the facts: 76,800 is the certified normal accommodation of prisons, yet the current population is 88,000.' Lord Ramsbotham said the Secretary of State for Justice had lost the respect of his staff by trying to blame the Northumberland prison riot on long working hours. 'Grayling should have acknowledged the profound crisis of overcrowding that persists. Prison and probation staff are well-aware that it was overcrowding that led the prisoners to riot,' he said.

Prisoners' Advice Service: Laura Orger, a solicitor at the Prisoners' Advice Service, followed Lord Rambotham's talk with a description of her work providing legal assistance to disabled prisoners. She recounted the plight of one of her clients who, after his wheelchair's footrest had broken, was forced to ask other prisoners to push him around while his legs dragged along the floor. Another of Orger's clients, a paraplegic prisoner, was forced to drag himself by his arms along the floor to use the toilet. Orger maintained that the internal complaints system had been completely inadequate, and that only the threat of legal action had successfully halted the 'systematic erosion of prisoners' dignity' in these cases.

While answering questions, Lord Ramsbotham stated that legal aid cuts were having a particularly damaging impact on prisoners and were impeding the work of organisations like the Prisoners' Advice Service. He encouraged everyone to donate to the Prisoners' Advice Service's annual Christmas appeal by texting PRIS01£10 to 70070 or visiting the Global Giving page. *Franck Magennis, The Justice Gap*

Joseph Kearins Found Dead in HMP Shotts *Source BBC News*

A man who fatally stabbed his friend has been found dead in prison. Joseph Kearins, 25, was convicted of the culpable homicide of Jordan Maguire at a house in Shettleston in Glasgow in October 2012. He was sentenced to eight years in jail due to the ongoing risk he posed to the public. A statement from the Scottish Prison Service said Kearins was found dead at HMP Shotts last Thursday. During his trial, the High Court in Glasgow was told that Kearins had not started the fatal fight with Maguire but had grabbed a knife from the kitchen and stabbed his friend through the heart. Kearins, who was 23 at the time, was originally charged with murder but pleaded guilty to culpable homicide under provocation. Following his death, the Scottish Prison Service said: "Police Scotland have been advised and the mater will be reported to the procurator fiscal. Next of kin have been informed and a fatal accident inquiry will be held in due course."

Solicitors/Barristers: Skeleton Arguments Must be of Better Quality *Source: Law Gazette*

The legal profession is failing to get the message about preparing better skeleton arguments, Lord Justice Jackson has said. The architect of last year's civil litigation reform used a Court of Appeal judgment to 'speak more bluntly' about the 'poor quality and excessive length' of some skeleton arguments in the upper courts. Jackson said that an appellant in a dispute over whether to commit a defendant for contempt of court had produced '35 pages of rambling prolixity' which made it difficult to track down the relevant facts, issues and arguments. The appellant was represented by Adam Tear, instructed by Duncan Lewis. The judge noted that the Court of Appeal has previously deprived successful parties of the costs of preparing their skeletons but said mild rebukes were no longer enough.

Jackson said: 'As anyone who has drafted skeleton arguments knows, the task is not rocket science. It just requires a few minutes clear thought and planning before you start. A good skeleton argument (of which we receive many) is a real help to judges when they are pre-reading the (usually voluminous) bundles. A bad skeleton argument simply adds to the paper jungle through which judges must hack their way in an effort to identify the issues and the competing arguments.' An appellant's skeleton should not normally exceed 25 pages and would usually be much shorter. Lawyers should provide a 'concise, user-friendly introduction' for the benefit of judges, with cross-references to relevant documents and authorities. He ruled that although the successful appellant in the case, Inplayer Ltd & Anor vs Thorogood, was entitled to costs they could not recover the costs of the skeleton argument.

Questions Over Birmingham's Grooming Injunctions *Martin Downs UK Human Rights Blog*

Over the last month Mr Justice Keehan has made a series of injunctions at the behest of Birmingham City Council designed to protect a vulnerable child in care from being groomed. It seems that the Orders are of such breadth that they are believed to have entered uncharted territory but there are questions whether there is any authority for this development.

Much attention has been given to a series of hearings in October and November during which the press have having been permitted to name six of the men (in the teeth of opposition from West Midlands Police) subject of these injunctions. However, no Judgment has yet been placed in the public domain. On that basis, there appears no choice but to try and piece together what has occurred from the media coverage.

At the heart of the case is a vulnerable 17 year old in the care of Birmingham City Council who is said to have been the subject of inappropriate attention by a number of men. In those circumstances to obtain an undesirable association injunction using the inherent jurisdiction is not uncommon. However, the Judge described the litigation as "new and strikingly novel".

who have made a mess, not being allowed to do that and almost being encouraged to reoffend.

Lord Faulks: I entirely accept that at least a significant part of imprisonment should be concerned with rehabilitation. I also accept what my noble friend says about the importance of encouraging ex-offenders to resume their life in so far as possible. We do, however, expect employers to be sensitive to re-employing offenders, depending on the particular nature of the employment.

Baroness Corston: While acknowledging the importance of the opportunity to resume career and noting that many men who come out of prison have a family home to which they can return, is the Minister aware that for the overwhelming majority of women coming out of prison, accommodation is their priority, not employment? They want somewhere to live with their children. Is he aware that women who are remanded for 28 days and who are not then charged lose their home and their children, with little chance of getting either back?

Lord Faulks: That is clearly a matter of concern. The Government are aware that that can be an issue and are anxious to ensure, so far as possible, that when offenders leave prison they are given as much support as possible. The noble Baroness will be aware of the transforming rehabilitation steps that have been taken by this Government. We wish to ensure, so far as possible, that the return to the community is as satisfactory as it can be.

Lord Dholakia: Will my noble friend agree with me that the provision in my Private Member's Bill, which is now incorporated in the LASPO Act, has benefited a large number of young people and a large number of offenders leaving prison? Will he therefore now look at the international dimension, in particular at what is going in Sweden, and at how such provisions can help to reduce the prison population in this country?

Lord Faulks: I am grateful to my noble friend for acknowledging that we have made progress. We hope to continue to make progress. Of course, he is quite right: we must learn from experience elsewhere, in Sweden or wherever else there is good practice.

Lord Beecham: Will the Minister explain how the crucial process of rehabilitation is assisted by the present state of our prisons, suffering as they do from overcrowding, staff shortages and a rising tide of self-harm and suicide?

Lord Faulks: The noble Lord makes a number of allegations about the unsatisfactory nature of our prisons. There are different reports for different prisons. I cannot possibly deal with all prisons at the Dispatch Box. I do not share his gloomy view of the state of our prisons, having visited a number of them. The work done in our prisons is of a very high standard and we have a dedicated body of prison officers who take great satisfaction in their work. I do not accept his description.

Lord Laming: Will the Minister agree that the size of the prison population has reached an almost all-time record and that that is a cause for concern, particularly given the difficulties there are now for courts in finding alternatives to prison for relatively minor offenders and those who have serious problems, such as drug or alcohol abuse? Would it not be worth while thinking again about the status of the probation service in this country?

Lord Faulks: The number of offenders who are in prison depends, of course, on what judges decide is appropriate and on the number of offences committed. I accept that the prison population is high at the moment; I do not accept that there is overcrowding within conventional definitions. However, I entirely accept what the noble Lord—who has great experience in this field—says: we should be looking, in so far as possible, for alternatives to prison, particularly to combat difficulties with drugs, alcohol or other matters that predispose people towards offending.

Baroness Browning More broadly, what are the Government doing to encourage employers to employ ex-offenders, even if it is not the original occupation that they held before they entered prison?

to establish the precedent facts, as to the legal and policy regime operated during the material time by the Respondents in relation to legally privileged material. The disclosure is not required, as in general civil litigation, to enable a party to pursue a train of enquiry, assess the authenticity of a document or as the basis for cross-examination. For those reasons we do not consider that the best evidence rule, as articulated by Sedley LJ at paragraph 49 of the Health Stores judgment is applicable at this stage of these proceedings, particularly as the Tribunal has the power to inspect the original document, if and when required, to ensure accuracy and authenticity, and is not left to rely upon a second-hand account, as in Health Stores.

Miss Rose argues that it is not for the Claimants to prove that they need the disclosure in redacted form, nor for the Tribunal to pre-empt any advantage which the Claimants might get from disclosure being made in that manner. But disclosure should only be given to the extent that it is relevant and necessary to enable the preliminary issue to be determined. Provided that the relevant parts of the documents, to the extent and in the manner that they can properly be disclosed without prejudicing security and intelligence interests, have been properly disclosed then there is no need for any further disclosure. Information which might be gleaned from the form and scale of redactions required to excise material is not relevant. Nor is it possible to see how any legitimate advantage could be derived in argument from the form in which material has been disclosed. The preliminary issue is a question of law and its resolution will be determined on the basis of the information which has been disclosed.

The Tribunal has inspected the documents in respect of which further disclosure is sought. It is satisfied that the protection of intelligence and security interests does require that disclosure should not be given by way of redacted copies of documents, but by summary or retyping. For those reasons the Tribunal has decided that in principle it is proper for disclosure to be given by the Respondents by way of summary or by way of retyping, where (as here) it is necessary to secure the protection of security and intelligence interests.

The Respondents are reviewing the disclosure required, and that disclosure will be reviewed by Counsel to the Tribunal. The Tribunal itself will be prepared to reconsider questions of disclosure if it considers that the arguments, when presented at the hearing of the preliminary issue, may require the extent or form of disclosure to be reconsidered.

It follows from this decision that it is not necessary to consider the issue, which has been raised by the Claimants, as to the power of the Tribunal to order a Respondent, where it does not consent to do so, to give disclosure to a Claimant.

http://www.bailii.org/uk/cases/UKIPTrib/2014/13_132-9H_2.html

Offenders: Rehabilitation *House of Lords / 27 Nov 2014 : Column 997*

Lord Cormack: What is their policy on the rehabilitation of offenders who have served their sentences and wish to resume their careers.

Minister of State for Justice (Lord Faulks): Most convictions become spent after a specified period and the person is then treated as though they had not committed the offence. The Government have reduced rehabilitation periods and allowed more convictions to become spent. However, to maintain public protection, certain spent convictions are disclosed for sensitive occupations.

Lord Cormack: Would he not accept that sending someone to prison is the punishment and that the purpose of prison, wherever possible, should be to rehabilitate so that that person can return to normal life and live a normal life? I accept that that is not always possible, but in most cases it should be. It is grievous to think of young people, in particular, who have had a successful career but

Press reports would suggest that the Judge also made orders which barred the men from "contacting, approaching or following the vulnerable teenager and from approaching "any female under 18", with whom they are not personally associated, in public places – long term."

Half the men were the subject of final orders and the rest interim orders. The media made reference to the Judge being scheduled to hear evidence in a number of the cases. Two of the men would appear to have secured the services of a junior barrister. Birmingham conceded that they could not secure convictions using the criminal standard of proof and therefore sought to prove their case on the civil standard (i.e. balance of probabilities).

Joshua Rozenberg has already opined that Birmingham City Council's decision to obtain injunctions barring 10 men from approaching young girls is innovative but hardly new. He reported that the Council relied on the doctrine of parens patriae and made reference to wardship. However, he added that this case is thought to be the first time that a local authority has taken civil action in this way to protect girls under the age of 18 from being approached by men with whom they were not personally associated. He stressed that one of the advantages of this approach is that injunction proceedings can be brought on behalf of the child without the child giving evidence and in circumstances in which she may not even perceive herself as being a victim.

The spectre of Rotherham and the attendant toxic press coverage has cast its shadow over all Local Authorities who are under pressure to take action to safeguard children. It is understandable why any Local Authority would want to see whether, in combination with the Police, they could disrupt gangs and do all they can to protect children. In support of this approach they would be able to rely on various historical statements about the breadth of the inherent jurisdiction. However, the problem is not the ability of the Court to protect individual children, rather it is the suggestion that the Court has the power to make injunctions against named men from approaching "any female under 18", with whom they are not personally associated, in public places. It is to be expected that any Judgment, when published, will seek to answer a number of potential problems.

What precedent can the Court rely upon to show that the jurisdiction of the Court extends beyond protecting named children and that would allow a Court to make injunctions against men to prevent them from approaching any female under 18? Almost all of the hitherto reported cases concern Wardship- and hence the Court is only concerned with the welfare of the particular Ward concerned. If the parens patriae jurisdiction is used then the Courts habitually act to protect named children. Is it possible to build on a case concerning the welfare of one child to make an injunction protecting all the female children of the Country?

What is striking about the approach of Keehan J is that he would appear to have made injunctions which could otherwise only normally be made by way of Orders under the Sexual Offences Act 2003. The first of these is a Sexual Offences Prevention Order (SOPO) which requires a Court to find that a person has been convicted of a sexual offence and the person's behaviour is such that there is reasonable cause to believe that it is necessary to make such an order. The second is a Risk of Sexual Harm Order (ROSHO) which would allow the Court to make an order if necessary if it finds that a person has done at least two particular sexual acts involving a child. If reports of the Birmingham case are correct, Parliament must have acted in ignorance when they passed the Sex Offenders Act 2003 (and its predecessor, the Crime and Disorder Act 1998) as the power to make equivalent injunctions were already part of the inherent jurisdiction- without the necessity for a person to have been convicted of any sexual offence or proving two or more qualifying acts.

The case law which has developed concerning these civil orders (e.g. R (on the application

of Cleveland Police) v Haggas [2009] EWHC 3231; [2011] 1 WLR 2512 has emphasised that whilst these are civil proceedings, because of the seriousness of the matters to be proved and the implications of the resulting Orders, the criminal standard of proof or something virtually indistinguishable from it should be used (the extent to which this is compatible with the decision of the Supreme Court in Re B [2009] UKSC 17 that there is only one civil standard of proof is unclear). Additionally, the Court of Appeal in R v Smith [2011] EWCA 1772 cautioned about the need for Orders to be precise, proportionate and not oppressive. It noted that that most offences relating to children are committed only when the child is under the age of 16 (save where an individual stands in a position of trust), restrictions should relate to those under 16 and not under 18.

SOPOs are obtained against those who are already sex offenders and ROSHOs against those where the Court has found at least two earlier matters proved. Reports of the Birmingham cases would suggest that the inherent jurisdiction would allow the Court to make such Orders without the necessity for those antecedent conditions to be met. The advantage of a SOPO or SOSHO is that there are now well established principles and procedures – including the necessity for the service of Civil Evidence Act Notices where appropriate and the prior service of a properly drafted proposed minute of the injunction. It is unclear whether the same restrictions would apply using the inherent jurisdiction.

As would be anticipated in a blog such as this, human rights considerations apply. There can be little doubt that the injunctions that are talked about would represent a major interference with private life (Article 8). One could imagine circumstances in which the same could be justified but the Birmingham case raises questions as to whether the injunctions are proportionate and – more importantly – in accordance with the law. At the very least, the legal foundation of such injunctions is obscure and calls into question whether it meets the requirements for legal certainty provided for in Article 7. If it turns out that these injunctions do not have a proper legal basis they may end up bringing the use of the inherent jurisdiction into disrepute.

Andrew Pack (AKA Suesspiciousminds and the Family Law Commentator of the year) has alerted me to the Anti-Social Behaviour, Crime and Policing Act 2014 (another situation in which Parliament appears to have acted in ignorance of the option under the inherent jurisdiction) which will (when the relevant sections come into force) create Sexual harm prevention orders and sexual risk orders. It would really assist the Police and Local Authorities if there could be clarity before these provisions become law. It is to be hoped that the Judgment, if and when made public, will answer these questions.

Belhaj & Ors v Security Service & Ors

On 6th November 2014 the Tribunal held a directions hearing in public principally to deal with requests for further information made by the Claimants about the Respondents' Closed Response Addressing the Legal and Policy Regime.

The context of this hearing is that there is to be a substantive hearing, on a date to be fixed, of an issue, the terms of which have been agreed between the parties. That issue is framed in following terms: "On the hypothetical assumption (the true position being neither confirmed nor denied) that the Claimants' legally privileged materials have been intercepted by the Respondents and/or have been obtained by the Respondents as part of their intelligence sharing regime: 1. Is the regime for the interception/obtaining, analysis, use, disclosure and destruction of legally privileged material prescribed by law for the purposes of Article 8(2) of the ECHR? 2. Has this been the case since January 2010 ?"

In preparation for the determination of that issue the Respondents have served an open Response addressing the legal and policy regime which is to be the subject of the issues. They have also served a summary of the closed Response submitted to the Tribunal which gives more information about that legal and policy regime. The first to eighth Claimants served a request for further information about that summary. In response to that request some further information and documents have been provided, but the Claimants argue that more is required.

The jurisdiction of the Tribunal to hear and determine these proceedings is derived from section 67 (1) (a) of the Regulation of Investigatory Powers Act 2000. Section 69(1) gives power to the Secretary of State to make rules regulating the exercise of the Tribunal's jurisdiction. In making rules the Secretary of State is required by section 69 (6) to have regard in particular both to the need to secure that proceedings brought before the Tribunal are properly heard and considered, and to the need to secure that information is not disclosed to an extent or in a manner that is contrary to the public interest or prejudicial to national security, the prevention or detection of serious crime, the economic well-being of the United Kingdom or the continued discharge of the functions of any of the intelligence interests.

Under Rule 6 of the Investigatory Powers Tribunal Rules 2000 ("the Rules"), the Tribunal is required "to carry out its functions in such a way as to secure that information is not disclosed to an extent, or in a manner, that is contrary to the public interest or prejudicial to national security, the prevention or detection of serious crime, the economic well-being of the United Kingdom or the continued discharge of the functions of any of the intelligence interests". In the context of this case the relevant factors which are particularly required to be secured by the Tribunal are those of national security and the proper functioning of the intelligence agencies. For shorthand those factors are referred to in this judgment below simply as security and intelligence interests.

The particular issue which has given rise to this judgment relates to the form in which certain documents have been disclosed by the Respondents to the Claimants. Certain documents have been disclosed not by way of redacted copies, showing the placing and scale of redactions made, but by way of giving the gist of some information or producing retyped versions which give relevant text from the underlying document, to the extent that information can properly be disclosed without prejudicing security and intelligence interests. That form of disclosure has been used by the intelligence agencies in other proceedings (see R (Maya Evans) v Secretary [2013] EWHC 3068 (Admin)).

Miss Rose QC argues that disclosure of a copy of a relevant redacted document, rather than disclosure by way of summary or retyping, is required as a matter of principle, as an aspect of the best evidence rule. She referred us to the judgment of Sedley LJ in R (National Association of Health Stores v Department of Health) [2005] EWCA Civ 154 at paragraphs 47 - 49.

It is important to note the differences between this Tribunal and the High Court, and the nature of the issue for which disclosure is required in this case. Rule 6 of the Rules has already been referred to. Under Rule 11 the Tribunal may receive any evidence in any form, and there no rules for disclosure, still less as to the form in which any disclosure made should be provided. But most importantly this Tribunal has the power, not available to the High Court, itself to obtain documents and information from the intelligence agencies under section 68 (6) and to scrutinise such documents and information for the purpose of exercising its functions, including deciding how proceedings may fairly be determined.

In this case disclosure is being made for a limited purpose, namely to allow the preliminary issue to be properly heard and determined. The purpose of the Respondents providing information is