ciates of the Adams gang. In a statement the family said: "Our right to quiet family life is trampled on and no reasonable person would be anything other than horrified at the casual treatment to health, safety and welfare provided. This whole latest episode stinks."

Last Tuesday, barristers representing Scotland Yard, the Justice Ministry and new police minister Mike Penning MP told the court that government officials had located some of the lost material in a safe and therefore the Met was downgrading the risk. DI Christopher Singleton of the London Region Protected Persons Unit denied any "promise of permanent relocation" in a statement. No explanation was offered as to why the MET had not responded to the family's emails asking for confirmation of the alleged promise. The Met argued it had no "duty" to protect the family, saying that, under legal powers derived from the 2005 Serious Organised Crime and Police Act, officers had discretion to vary the levels of protection. A further hearing isset for January. The Government and the police are making plans to reform the "inconsistent" treatment received by an estimated 3,000 people currently in witness protection. A spokeswoman for the MET declined to comment on the case while the family's claim was being considered. A Ministry of Justice spokesperson said: "We do not comment on individual cases. Witness protection is an operational policing matter. Any allegation of data loss is taken very seriously and fully investigated."

Leon Briggs Investigation Update

The IPCC's investigation into the death of Leon Briggs is continuing and five police officers and a police detention officer remain under criminal investigation. This month, four of those officers, a police constable and three sergeants, were served with additional gross misconduct notices. The notices relate to the matter of conferring at the police post incident procedure on 4 November 2013, contrary to the College of Policing's Approved Professional Practice. Further criminal interviews with five police officers and a police detention officer took place in November 2014. A second detention officer has been told they are no longer under criminal or misconduct investigation but has been interviewed again by IPCC investigators as a significant witness to the investigation. Mr Briggs' family and Bedfordshire Police have been updated with the latest developments.

Irene Collins Bitten to Death by Police Dog

The IPCC has served a Cleveland Police dog handler with a gross misconduct notice and interviewed him under criminal caution as part of its independent investigation into the death of Irene Collins aged 73. who was repeatedly bitten by a German shepherd as officers searched for a suspect in her Middlesbrough garden, in July. The officer was interviewed in relation to an allegation of failing to control a dog, contrary to the provisions of the Dangerous Dog Act 1991. The dog was put down in September, the force has now confirmed. Mrs Collins died in hospital four days after the incident on 16 July.

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 508 (18/12/2014)

Mixed Success for Prisoners Claiming Non-Rehabilitation Damages

A failure properly to progress indeterminate-term prisoners towards release once they have served the tariff part of their sentences is not a breach of their rights under article 5 of the European Convention on Human Rights, the UK Supreme Court ruled today.

However, the overall scheme of article 5 does impose an implied ancillary duty on the Secretary of State to facilitate prisoners' rehabilitation and release. Breach of that duty would not affect the lawfulness of the detention, but would entitle prisoners to damages.

The court, which expressly declined to follow the approach of the European Court of Human Rights in an earlier decision, was giving judgment in an English case concerning four prisoners who claimed that their "post-tariff" detention was unlawful because the Secretary of State had failed to provide them with a reasonable opportunity to progress their rehabilitation and release. The appellants relied on the decision of the Human Rights Court in James v United Kingdom (2012), where the court found that a failure properly to progress prisoners towards "post-tariff" release breached their article 5(1) rights to liberty and made their continued detention unlawful. One, Haney, claimed that he had been transferred to open prison conditions too close to the expiry of his "tariff" period to enable his immediate release. The other three, Kaiyam, Massey and Robinson, claimed that they had not been able to commence particular rehabilitative treatment programmes within a reasonable time of their "tariff" period expiring.

The court unanimously allowed Haney and Massey's article 5 appeal, awarding Haney damages of £500 and Massey £600; unanimously dismissed Haney's article 14 appeal and Kaiyam's article 5 appeal; and dismissed the article 5 appeal in the case of Robinson by a majority, Lord Mance dissenting. Giving the principal judgment, Lord Mance and Lord Hughes (with whom Lord Neuberger, Lord Toulson and Lord Hodge agreed) said that the court was not bound to follow the Human Rights Court's reasoning in James, that a failure properly to progress prisoners towards "post-tariff" release amounted to a breach of their article 5(1) right to liberty, and the express wording of article 5(1) or 5(4) did not create any relevant duty to provide prisoners with a reasonable opportunity to progress their rehabilitation and release. However, they accepted that the Secretary of State had a duty under article 5 to facilitate prisoners' rehabilitation and release, breach of which duty would entitle prisoners to damages.

In the present appeals, Haney's delay in being transferred to open prison conditions had deprived him, contrary to article 5, of a reasonable opportunity to demonstrate that he was no longer a danger to the public, an opportunity which the Secretary of State himself had said that he should have. However, there had been no breach of article 14 in discriminating between pre- and post-tariff prisoners. Kaiyam's delay in being able to commence various rehabilitative treatment programmes did not breach his article 5 rights. He had been provided with a reasonable opportunity to demonstrate that he was no longer a risk to the public through courses on enhanced thinking, drug awareness and victim awareness but his responses to those programmes had been poor.

Massey's delay in being able to commence an extended sexual offender's treatment programme until nearly three years after the expiry of his tariff period (and after the Secretary of State had provided for a timetable which was not fulfilled) had deprived him of the reason-

able opportunity to demonstrate that he was no longer a danger, in breach of article 5.

In relation to Robinson, the majority held that delay in being able to commence an extended sexual offender's treatment programme until nearly nine months after the expiry of his tariff period did not breach his article 5 rights. The question was not whether the appellant had been deprived of access to a particular course, but whether he had been given a reasonable opportunity to demonstrate that he was no longer a danger to the public. Lord Mance however considered that article 5 required that Robinson be given a reasonable degree of access to the extended sexual offender's treatment programme, which he had not been given in the circumstances of the present case.

Terry Smith - Another IPCC Judicial Review Knock Back

Permission has been refused by the High Court for the wrongly convicted Essex crime writer Terry Smith (TS) to judicially review a decision by the Independent Police Complaints Commission (IPCC) 'not' to uphold a complaint against an IPCC Casework Manager, This is where the IPCC employee refused to record a complaint against a British Transport Police (BTP), Professional Standards Department (PSD), senior investigating officer Detective Inspector John Murphy who, 'TS' suggests, went onto resign from the British Transport Police Service rather than face serious allegations of gross police misconduct involving the improper investigation of a complaint.

Basically, the facts are TS submitted a complaint to the IPCC in July 2011 in relation to a number of tainted BTP detectives who wilfully framed the crime writer. Its alleged-in December 2011 BTP detectives went onto resign en bloc from the BTP themselves in order to avoid criminal proceedings. Thereafter the victim lodged a second fresh complaint to the IPCC in March 2012 into the way the original complaint was mishandled and mismanaged by BTP, PSD officers. In short, the complainant was prevented and not allowed from putting the second fresh complaint in its entirety and as a direct result it was unlawfully closed down and dismissed. During an IPCC Assessment however, another case manager identified serious investigative irregularities against the investigation officer and recommended a third fresh complaint should be made against the officer.

There were two strands to the complaint. Firstly. the investigating officer had breached IPCC, Statutory Codes of Practice No.86 & 87 which states: there were no "clear communication" or "clear shared understanding of the main issues of concern raised" between the investigating officer and the complainant. Please note, in a trade-off to appease the complainant, these less serious complaints were recorded and later upheld by BTP. But secondly, the more grave allegations of 'Serious investigative failings" on the part of the Detective Inspector did not get past the recording. stage, let alone investigated.

The Essex crime writer suggests, the salient reason for this is, if the complaint had been properly recorded and investigated, the investigative trail would have led officers all the way back to why, when and how the original BTP Operation Cobalt (investigation into the armed robbery and shooting at Raleigh station in 2007); detectives were allowed to escape scrutiny and disciplinary measures over the relentless persecution and framing of the crime writer. In essence, rather than the truth emerging over the level of police corruption endemic within BTP Operation Cobalt; the PSD at BTP preferred to unjustly and unfairly close down the complaint and let the investigating Detective Inspector walk away from the BTP Service with full police honours.

What makes the non-recording of the complaint even more risible, is the pathetic attempt by the IPCC to protect and support tainted police officers, by that, 'TS' means, initially the IPCC said the complaint was not valid as it was 'about the outcome of an investigation into a previous complaint'. What the IPCC failed to state; however, was the IPCC deliberately removed or redacted a critical sentence from Clause 114 in their correspondence which clearly stated:

ferred to the prison with very little of their sentence left to serve and their presence potentially undermined the resettlement ethos of the prison; and - there were some weaknesses in the risk assessment processes being used before women were released on temporary licence. - Inspectors made 28 recommendations

Nick Hardwick said: "Askham Grange continues to provide outstanding support to the women it holds, and we have again given the prison our highest mark in all four of our healthy prison tests. There is real encouragement that the resettlement work being done will make it less likely that women will offend in the future with, for example, over 40% of women gaining employment on release, and nearly as many going into further education or training. The threat of closure is a real one, and it is not yet clear whether the proposed smaller units in closed women's prisons will be able to replicate the full range of provision available at Askham Grange. The prison in a sense sets a benchmark of what needs to be achieved at these new planned facilities."

Witnesses in Gang Trials Put at Risk by MoJ Blunder *Michael Gillard, Indpendent*

A family of four who testified against organised criminals had to be moved at night after Ministry of Justice officials "lost" sensitive details about their new location and identities. The government last week admitted the security blunder during an emergency High Court hearing on future protection measures for the family. The case is an ongoing embarrassment for the police and the Government, which claims that witnesses who risk their lives are the "unsung heroes of society", deserving "the best possible protection". The family were originally placed in the witness protection scheme in 2003 after Metropolitan Police detectives warned of a plot to kill the mother and daughter at a school summer fair. They subsequently gave evidence in two gangland murder trials between 2006 and 2009, and provided financial information about the notorious Adams crime gang, based in north London.

However, the Met removed the family from the witness protection scheme in 2011, claiming that they were no longer at risk, but without explaining why. The family were then offered only vague instructions to stay away from parts of London and the West Country. They now live on benefits in a small house that their doctor says is inadequate for one 82-year-old family member, who suffers from advanced Alzheimer's disease. The family are suing the Met for allegedly "abandoning" them without the necessary support to rebuild their lives. To gain political support for their case, which the Met is resisting, on 11 July they hand delivered a thick package of sensitive documents to Damian Green MP, former Minister of State for Policing, Criminal Justice and Victims. A similar bundle was also sent to then Home Office minister Norman Baker and a senior police officer responsible for UK witness protection. The documents included a detailed complaint about the Met's witness protection unit, security breaches involving the local authority where the family had been rehoused, and details of the criminal who detectives believe was behind the assassination plot.

Officials only discovered that sensitive data had been lost when the family complained in October about not having received a reply. Last month, two witness protection officers arrived at night, unannounced, and took the family to a motorway hotel for their own safety. The family claim they were subsequently promised they would be permanently rehoused. A series of emails sent to the Met's legal department asking for confirmation of the alleged new relocation plan went unanswered.

The family, who are representing themselves, made an emergency application to the High Court last week, arguing that, in the face of Scotland Yard's "wall of silence", they had a "reasonable expectation" to be permanently rehoused in suitable long-term accommodation. They also alleged police had failed to properly investigate a recent suspicious attempt to find the father. It was claimed that protection officers failed to interview a family friend who had reported being approached by asso-

Unannounced Inspection of HMP & YOI Portland

Originally built in 1848, HMP Portland is a category C training prison holding a mix of young adult and adult male prisoners in Dorset. With a population of just under 600 prisoners. Portland aimed to accept prisoners from within the region and resettle them, but due to national population pressures, many overcrowding drafts from outside of the area were being accommodated and this was problematic. In 2009 we inspected a prison that was ensuring reasonable provision for prisoners and our subsequent follow-up visit three years later, confirmed the prison was progressing well. Our findings at this inspection were more mixed and reflected the operational challenges the prison was facing. These included the age and offence profile of the prisoners held and consequent risks being managed, the pressures of overcrowding, the age of the infrastructure, and the limitations of the regime. All were significant, and all were factors that were inevitably impacting the quality of outcomes prisoners experienced. Nick Hardwick

Inspectors were concerned to find that: - there had been three self-inflicted deaths since the last full inspection and it was not clear that recommendations from investigations into the deaths had been properly implemented; - case management of those in self-harm crisis was poor and the prisoners at risk we spoke to had very mixed views about the level of care they received, much of which seemed to be brief and intermittent. - support for prisoners with substance misuse issues had worsened, in part as a consequence of staff shortages and increased demand, and there was evidence that psychoactive substances such as Spice were available; - most accommodation was old and inadequately maintained; - purposeful activity and the provision of education, training and employment was poor; - there was sufficient activity for just three-quarters of the population and what was available was not used well; - some prisoners had inadequate contact with their offender supervisors and there was a lack of appropriate offending behaviour programmes. - We were concerned about the inadequacy of support afforded to vulnerable prisoners, seven of whom were co-located with other prisoners. These prisoners were left isolated, inadequately supervised and were experiencing severely limited access to the services they needed. - Some security arrangements were quite restrictive for a category C training prison - Ofsted assessed the overall effectiveness of learning and skills provision as 'inadequate'. - Inspectors made 92 recommendations - Inspection 14/24th July 2014 by HMCIP, published 04/12/14

HMP & YOI Askham Grange - A Very Well Run Women's Prison

Askham Grange continues to provide outstanding support to the women it holds, said Nick Hardwick, Chief Inspector of Prisons. Today he published the report of an unannounced inspection of the women's open prison in Yorkshire. Askham Grange is one of only two women's open prisons in England and Wales. Its primary function is to provide resettlement and though the gate support to women coming towards the end of longer sentences. It aims to deliver a decent regime where women are encouraged to take responsibility for themselves and others. Its ethos is to provide a supportive environment where women can develop confidence, build employability skills and access the community through the temporary release scheme. It continued to do all of these things very well, despite the threat of closure.

Inspectors were pleased to find that: - women arriving at the prison were well looked after and care was taken to communicate what was expected in terms of behaviour and participation in the regime; - it was a safe prison with very few incidents, built on the supportive relationships fostered between staff and prisoners; - the environment was very good, and women took real pride in ensuring it was looked after and clean; - activity provision was of a high standard and met the needs of the population; and - resettlement was embedded in almost all the work being done.

However, inspectors were concerned to find that: - a number of women had been trans-

"Where the complaint is about conduct [of an investigating officer] it should be recorded and dealt with" The IPCC then proclaimed the complaint was "repetitious" but this was nonsense, as the IPCC Casework Manager in the Appeal assessment had already stated it as a new matter that needed addressing via a fresh complaint.

When these lame excuses to unlawfully close down the complaint failed, the police protectors at the IPCC came up with a new legal strategy at the High Court that: "The Defendants [IPCC] not to uphold the Complainant's complaint about Emma Pearce is not a public law matter and is not amenable to judicial review." Taking a global view of the complaint we learn the complainant is a public UK citizen (albeit a wrongly imprisoned one), who has sought legal address against a public employee (Ms Pearce) who makes public decisions on behalf of a public body (IPCC), who putatively supervise complaints in regard to a public service (the Police), when all said and done it is in the public interest and the interest of justice to do so. So how on earth is this not a public law matter?

How have the IPCC persuaded the High Court to take this public matter in the public Interest out of the public domain and context? What happened the noble diktat that justice needs to be seen to be done? How is this injustice reputedly "totally without merit?" You will not be surprised to learn this is a civil matter and is appealable at the Court of Appeal Civil Division on the papers only. What the chances of another knock back?

Strength and Honour as Always.

Terry Smith: A8672AQ, HMP Swaleside, Brabazon Road, Eastchurch, ME12 4AX

Stand Up Wycombe We Cant Breathe - Justice for Habib 'Paps' Ullah

Justice4Paps will be holding a peaceful candlelit vigil on Saturday 20th December 5-7.30pm outside High Wycombe Police Station to mark Habib 'Paps' Ullah's birthday and his children will be giving in a birthday card as they normally do each December.

We will also remember ALL who have died at the hands of the Police & the State in the UK and in the US in 2014 & the ongoing campaigns for justice. Since last year there have been the high profile deaths of Michael Brown and Eric Garner in America but in the UK there have been a number of deaths in custody, after police custody and in Immigration Removal Centres, prisons and Young Offenders Institutes.

It's been a tremendously busy and difficult year for the family campaign. Habib's death was finally referred to the CPS in February and in August they made a decision not to prosecute the officers involved. On the same day the IPCC recommended to Thames Valley Police that the SAME officers be subject to a disciplinary hearing for gross misconduct. The family are now looking to consider challenging the CPS decision and are committed to continuing the fight for justice.

'When an obvious crime or serious of criminal incidents are committed by police officers then why is threshold for real prosecution set at such a high standard? In Habib's case the officers changed their statements to make to fit around what had happened, these are trained professional personal who know the weight of statements. They knew exactly what they were doing yet even under oath the prosecuting authorities have chosen to simply ignore the facts.

We are also pained to learn of the decision not to prosecute the officers that racially abused and assaulted Faruk Ali1 in Luton despite their being recorded evidence of their assault and abuse. More and more the focus is on the reluctance and hesitance of prosecuting authorities and so we continue to fight for that Justice.' Zia Ullah, Justice4Paps

In 2015 there will be inquests for Habib & Kingsley Burrell as well as others. We will also

be asking WHY it takes so long for justice to be served when people die in custody. Next year it will be SEVEN years since Habib died in Sharrow Vale, High Wycombe

'This year has been very difficult yet important as we've been through mixed decisions and unclear conclusions from the CPS. With clear evidence of perjury and gross misconduct use of force its still a mystery how officers get away with murder. Its more and more clear that the CPS is only there to excuse/cover police corruption even when crime is crystal clear. They are NOT working with integrity & we don't have any faith in them, but we will carry on fighting until justice is served. No justice No peace.' Nasrit Mahmood, sister of Habib

The Justice for Habib 'Paps' Ullah/Justice4Paps campaign was set up in July 2008 after the death of Habib during a routine stop and search in a car park in High Wycombe

CCRC - Appeal Courts Gatekeeper

When the Criminal Cases Review Commission (CCRC), the first state-funded body to investigate wrongful convictions in the world, came into being in 1997 after scandals including the Birmingham Six, human rights groups such as Justice dropped casework. They did not want to encroach on the territory of a watchdog whose existence they had campaigned so hard for.

However – unsurprisingly, perhaps – it quickly became apparent that the CCRC alone was not going to solve the problem. To mix metaphors, the watchdog became the court of appeal's gatekeeper. Anyone claiming to be the victim of a miscarriage of justice now has to apply to the body to have their case referred to the appeal court.

Lawyers, with a few notable exceptions, tend not to go anywhere near these troubling and often intractable cases. There is little public money available – £48.36 an hour for appeal work, a rate that has not increased since 2001 – and it is paid at the end of a case. The latest round of savage legal aid cuts means that the committed few will become fewer. Law students are the last hope for many victims of wrongful conviction.

The pioneering Bristol Innocence Project, launched in 2004, led to the creation of the Innocence Network UK (INUK), an umbrella group that has helped set up 30-plus university-based schemes. The George case represents a hugely significant moment in the innocence movement. It is the first success in the court of appeal in 10 years. Its success, led by Professor Julie Price and Dr Dennis Eady, has come at a critical time.

This summer the INUK disbanded after a unilateral decision by its founder Dr Michael Naughton, and the movement is in disarray. He said: "The reality is that a lot of universities have jumped on the bandwagon because it's sexy and they can use it as a recruiting tool." The problems faced by INUK are many and varied – Cardiff Law School, for example, withdrew over concerns about its lack of democracy.

Universities are now considering whether to continue their work, and even what they should call themselves. The name "innocence project" is trademarked by the Innocence Project in New York. INUK members were allowed to use the name as part of their membership.

It would appear that a genuinely radical project has crashed dramatically on the jagged rocks of reality. At the end of 2012 there were 27 projects investigating about 100 cases. However, the CCRC reported that there were only 17 submissions from five universities (six of which were from Cardiff). At the time the CCRC pointed out that since 2005, 266 referrals from the commission had gone back to the courts.

However, universities should not be attacked for taking on cases no one else will, and then failing to get them overturned. There is a bigger problem. According to Cardiff's Eady, that

says. Price also says there are no Jewish books in the prison library. A spokesperson from the prison said: "We are robustly defending all elements of the claim." The inmate submitted his claims under the equality laws and the Human Rights Act.

Price is currently serving a 28-year sentence for smuggling drugs. He had hidden seven kilos of cocaine inside drums of syrup. Before he was caught, he owned property in London but spent most of his time in a chateau in south-west France. In 2003, a shipment sent by Prince was seized by Dutch police acting on a request from UK Customs.

Sentencing Price, Judge Martyn Zeidman said the plot was a "major, sophisticated attempt to bring a huge quantity of cocaine into our country. Those who try to profit out of this evil cannot justifiably complain when they receive severe punishment," he said. "It is a means of deterring others and reflecting society's horror at such activities." Price previously served 12 years in prison for his part in a £35m armed robbery at Heathrow in the 1970s.

Boys at YOI Secured Higher Education Rates than Average UK Pupils *Ben Tufft*

Inmates at a Young Offenders' Institute (YOI) have secured higher achievement rates than pupils in the nation's schools, bringing the quality of state education into question by critics. A report released earlier this year by HM Inspectorate of Prisons found that children at HM YOI Hindley, aged 16 and 17, received provision that was "as good, if not better than that found in the community" and their achievement rates were "above the national average". The education, learning and skills provided by the institution were the best inspectors had ever seen and the quality of teaching was described as "sometimes outstanding". Ofsted, the body that monitors standards in state schools nationwide, rated all elements of learning, skills and work provision good and found that the institution had created a productive learning environment.

A former Ofsted inspector, Christ McGovern, who now chairs the campaign for real education claimed that discipline was a real issue with education today. He told The Independent: "The success of Hindley, operating in very difficult circumstances, deserves our applause and admiration. Sadly, what it achieves is, also, something of an indictment of those secondary schools identified by Ofsted as providing less than a good level of education. Methods for ensuring effective classroom control, discipline and good order need to rise to the top of the teacher training agenda." The latest figures released by Ofsted found that of all the schools inspected by the body between 1 September 2013 and 31 August 2014, 63 per cent were judged good or outstanding. A decline on the previous year's figure.

Nick Hardwick, the chief inspector of prisons, said of the institute's provision: "Some aspects, such as learning and skills and resettlement work, are now very good, comparing favourably not just with other YOIs but with similar provision in the community." Boys at the offenders' institute were able to gain a range of vocational qualifications in skills including bricklaying, plastering, fitting interiors and painting and decorating.

A Department for Education spokesperson said: "Our plan for education has already transformed discipline in schools. Teachers can now properly discipline disruptive pupils and exclude the worst behaved pupils which will benefit all by deterring poor behaviour and freeing up teachers' time and energy, allowing them to focus on what they do best – teaching and inspiring our next generation. Under this government there are a million more children in good or outstanding schools and a 60 per cent increase in the proportion of young people studying the core academic GCSEs that employers want." The inspection of HMYOI Hindley was unannounced and looked at one of two sites, which holds 161 inmates.

cases. The statistics are stark; two women are killed each week by a current or former partner and 500 recent victims of domestic violence commit suicide every year.

"The over strict tests required to bring evidence to satisfy the broader statutory meaning of domestic violence are not what parliament intended," he added. "Legal aid is often the only way that those who suffer at the hands of abusers can bring their case before the courts. "Without legal aid women are being forced to face their perpetrators in court without legal representation. Victims of domestic violence should not be excluded from accessing legal aid for family law disputes against an abusive ex-partner or relative because of these unrealistic regulations." The government's legal aid cuts were "rushed through with very little thought for what they would mean for sufferers of domestic violence", said shadow justice minister Andy Slaughter. "David Cameron was warned by Labour, legal experts and victims groups that restricting legal aid in this way was the wrong thing to do but sadly he refused to listen." The judges have said that they will give their decision on the hearing at a later date.

A Ministry of Justice spokesman said: "This government is exceptionally clear that victims of domestic violence should get legal aid wherever they need it to help break free from the abusive relationship. We have twice made changes so it is easier for people to get the evidence they need to claim legal aid, both during the passage of the act and again earlier this year. "Since the reforms were introduced last year, thousands of people have successfully applied for legal aid where domestic violence is involved."

HMP Elmley Death: 9th Fatal Incident This Year *Mark Piggott*

A prisoner has been found dead at HMP Elmley on the Isle of Sheppey in Kent, the Prison Officers' Association says - the third in three weeks and the ninth in 2014. A spokeswoman for the Ministry of Justice (MoJ) said: "An HMP Elmley prisoner was found unresponsive in his cell at about 17:20 GMT (Tuesday 2 Dec). As with all deaths in custody, the Independent Prisons and Probation Ombudsman will conduct an investigation. Every death is a tragedy for the individual and their families."

Last month a report published by Her Majesty's Inspectorate of Prisons (HMIP) listed a number of criticisms of Elmley, including over-crowding, staff shortages and inadequate assessment and management of high risk prisoners. Designed to accommodate 985 prisoners Elmley holds 1,252. Writing about the Elmley report, the Chief Executive of the Howard League for Penal Reform Frances Crook said: " The report on Elmley prison follows reports in the last three months that show similar problems in Doncaster (run by Serco), Glen Parva (where teenagers have taken their own lives), Wandsworth, Cookham Wood (holds children), Altcourse (run by G4S), Gartree, Wymott, Swaleside, Chelmsford, Isis, Hindley (young adults), Preston, Ranby, Birmingham (G4S), Winchester and Wormwood Scrubs. This is a public service in meltdown."

Drug Lord Simon Price Sues Jail For Not Supporting Kosher Lifestyle *Interceder*

A drug baron who was jailed in 2005 for trying to smuggle £35m worth of cocaine into Britain is suing his prison for not supporting his kosher lifestyle. Simon Price, a 68-year-old Orthodox Jew, is suing the HMP Frankland in Durham for £2,500 for being anti-Semitic. According to the Sun, he says Muslim and vegetarian prisoners are treated better than Jewish inmates, saying the prison has an "indifferent and discriminatory attitude towards Jews at HMP Frankland which consciously or subconsciously reflects institutionalised anti-Semitism".

Price is suing the prison because he has not been given his own pots and pans to cook Kosher meals - he has to make do with ones that have been used by other inmates, he

problem resides at the heart of the appeal process itself. "The greatest problem is the court of appeal's irrational belief in the infallibility of the jury and its demand for a few neat, precise, new and compelling appeal points rather than an appreciation of the holistic picture."

Concern over miscarriages of justice, which once so scandalised the great British public, has mysteriously evaporated. Wrongful convictions, with their difficult characters and complex narratives, became an unlikely staple of our broadcasting schedules through the 1980s and the 1990s as a result of pioneering TV programmes such as the BBC's Rough Justice and Channel 4's Trial and Error. The BBC pulled the plug on Rough Justice in 2007 but the problems never went away.

Lawyers and campaigners report a growing unwillingness on the part of the court of appeal to engage with these difficult cases. The CCRC, under-resourced and oversubscribed, faces criticism over the variable quality of case review managers, its reliance on desk reviews and an overly deferential approach to the court of appeal. Perhaps what we need is the British version of the US podcast Serial, a Rough Justice for the social media generation.

We also need universities to stay involved. The victims of wrongful convictions have few friends. It would be a disaster if the consequence of the current impasse over innocence work meant that universities simply walked away. I hope they will look to the decision in the Dwaine George case and redouble their efforts.

Liberty & Ors v Government: War on Terror and Difficulties with Human Rights

This is a fascinating case, not just on the facts or merits but because it is generated by two of the major catalysts of public law litigation: the government's duty to look after the security of its citizens, and the rapid outpacing of surveillance law by communications technology. Anyone who has seen The Imitation Game, a film loosely based on the biography of Alan Turing, will appreciate the conflicting currents at the core of this case: the rights of an individual to know, and foresee, what the limits of his freedom are, and the necessity to conceal from the enemy how much we know about their methods. Except the Turing film takes place in official wartime, whereas now the state of being at "war" has taken on a wholly different character. The judgment is long and necessarily detailed, so forgive the length of the summary and commentary to follow: but I highly recommend the final twenty pages to anyone interested in a real-life exploration of the difficulties created by the extra-jurisdictional (and ex-EU) character of modern communications when governments try to ensure that their intercept powers are compatible with the European Convention on Human Rights.

General Background: The Claimants, all representatives of human rights organisations here and abroad, alleged the unlawfulness pursuant to Article 8 (and collaterally Article 10) of certain assumed activities of the Security Service (also, and colloquially, known as MI5), the Secret Intelligence Service (and similarly also known as MI6) and the Government Communications Headquarters ("GCHQ"), which are collectively described in the following paragraphs as the Intelligence Services or Respondents.

The alleged activity, which was not admitted by the Respondents, all surfaced as a result of the documents leaked by Ed Snowden. These leaks resulted in the Claimants asserting their belief that investigation of the Respondents would show that the Claimants' privacy had been unlawfully invaded. The actions of the Respondents, involving inter alia information to the Respondents from the US National Security Agency and the issue of warrants under the 2000 Regulation of Investigatory Powers Act (RIPA), were not suggested to be unlawful save in

the respects alleged by reference to Article 8 of the Convention, were all taken in the interests of national security, and at a time when the threat to the United Kingdom from international terrorism was 'Substantial', indicating that an attack was a strong possibility. This has been recently upgraded to 'Severe', meaning that an attack is highly likely.

Burton J, giving judgment as President of the Tribunal, commented that the Tribunal had had the benefit of "very full legal arguments on assumed facts at the open hearing", we gained a full understanding of the case as fully canvassed between counsel by reference to more than 140 legal authorities, including a substantial number of decisions of the ECtHR. We were and remain satisfied that the Tribunal thus fully appreciated the nature of the Claimants' case .The policy of neither denying or confirming information regarding their activities as a result of leaks is an essential part of the security services' function in order to protect their intelligence and agents. This policy was not under challenge.

The Prism Issue (Issue (i)): The alleged facts for the first issue were that US Government's "Prism" system collects foreign intelligence information from electronic communication service providers under US court supervision. The US Government's "upstream collection" programme obtains internet communications under US court supervision as they transit the internet. The Claimants' communications and/or communications data (i) might in principle have been obtained by the US Government via Prism (and/or, on the Claimants' case, pursuant to the "upstream collection" programme) and (ii) might in principle have thereafter been obtained by the Intelligence Services from the US Government. (It should be borne in mind – and comes as some surprise to the writer of this post – that since the United States is the principal hub of the world's telecommunications system, a very substantial quantity of the world's communications passes through the United States: thus for example an email sent by a sender in the UK to another email address in the UK may be routed via the United States.)

Arguments before the Tribunal: In the light of factual premises (1) and (2) above, the Claimants asked whether the statutory regime governing the sharing of information between the UK and the US satisfied the Article 8(2) "in accordance with the law" requirement. They sought, in effect, declarations that the Respondents had unlawfully failed to ensure that there was in place a regime which complied with Article 8 and 10 governing the soliciting, receiving, storing and transmitting by UK authorities of private communications of individuals located in the UK which have been obtained by US authorities. They further asked for a declaration that the soliciting, receipt, storage and transmission of such information by the Security Service, the Secret Intelligence Service and/or GCHQ was unlawful, and an order that the Security Service, the Secret Intelligence Service and/GCHQ would not solicit, receive, store or transmit such information unless and until such activities are governed by a legal regime which satisfied Articles 8 and 10 and would destroy any material unlawfully obtained.

The Respondents relied on the statutory framework set out under Section 1 of the Security Service Act 1989 to permit them to receive and use such information. This provision imposes limits on the securing of information, which should be no more than is necessary for the purposes of protecting national security. As Burton J pointed out, these statutory limits do not simply apply to the obtaining of information from other persons in the United Kingdom or to the disclosing of information to such persons: they apply equally to obtaining information from or disclosing information to persons abroad, including foreign intelligence agencies.

The Respondents are also bound by their obligations under s.6(1) of the Human Rights Act 1998, which, in relation to breach of Articles 8 and 10 of the Convention, is another positive

question for the jury was whether he had acted in self-defence (see paragraphs 6-7 above). In these circumstances, and despite the applicant's claim to the contrary (see paragraph 29 above), it cannot be said that there was an important conflict or a clear dispute regarding police evidence in the case (compare and contrast Hanif and Khan, cited above, § 146).

45. Having regard to all of the above considerations, the safeguards present at the applicant's trial were sufficient to ensure the impartiality of the jury which tried the applicant's case. There has accordingly been no violation of Article 6 § 1 of the Convention.

For These Reasons, the Court, Unanimously,

1. Declares the complaint concerning the alleged lack of impartiality of the jury admissible
2. Holds that there has been no violation of Article 6 § 1 of the Convention.

Domestic Violence Victims' Access to Legal Aid 'Unlawfully Restricted' *Amelia Hill*

At least two in five victims of domestic violence cannot get legal aid because the government has imposed what experts have said are unlawful, devastating and unrealistic restrictions on access. In a case heard on Friday at the High Court, the government was accused of "turning women away at the first hurdle" in cases of child custody or division of assets when it bought in new rules that set out mandatory evidence requirements for victims seeking legal aid for private family law cases.

"The changes to the legal aid scheme introduced in April 2013 have had a devastating impact on women's ability to secure safe and independent futures for themselves and their children," said Emma Scott, director of Rights of Women, which bought Friday's case against the government. "Although legal aid remains in place for some family law cases, still too many women affected by violence are being denied legal advice and representation in family cases because they do not have formal forms of evidence of the violence they have experienced in order to apply for legal aid, and even if they do, the ongoing risks to them do not disappear after two years," added Scott, who led a demonstration against the cuts outside the Royal Courts of Justice in London. This means those applying for legal aid must have evidence of domestic violence that is dated in the last two years. "What the government has just started doing recently is withdrawing legal aid if the evidence 'expires' during legal proceedings, unless victims can provide fresh evidence of abuse," Scott said.

She says this is likely to be a problem in two main instances. "Firstly, perpetrators can manipulate events and wait until they know the woman has got no chance of getting legal aid before they refuse to let them see children or have access to money or property," said Scott. "Secondly, the very nature of these kinds of proceedings mean they often go on for a long time – or come back to court much later when the man suddenly refuses to adhere to original court orders. This often happens when the original evidence is older than two years and therefore the woman is not eligible for legal aid."

The legal case coincides with a report published on Friday by Rights of Women, Women's Aid Federation England and Welsh Women's Aid, which shows that despite changes to the list of evidence introduced in April 2014, nearly 40% of women affected by violence do not have the required forms of evidence. These women, say legal experts, are faced with a stark choice. They could pay a solicitor privately, often causing them to get into debt, represent themselves and face their perpetrator in court, or do nothing and continue to be at risk of violence. Nearly 60% of women surveyed said that they took no legal action as a direct result of not being eligible for legal aid. "Legal aid is a lifeline for victims of abuse, enabling them to escape from violent relationships, protect their children and manage their financial situations," said Andrew Caplen, president of the Law Society. "Access to family law remedies is vital in these

were sufficient guarantees to exclude any objectively justified doubts as to their impartiality.

40. As in Hanif and Khan, cited above, § 143, there were a number of safeguards present in the applicant's case. First, the police officers were two of twelve jurors, selected at random from the local population. The applicant's allegations that the jury composition was manipulated in his case are wholly unsubstantiated and must be rejected. Second, before commencing service, the jurors were required to swear an oath or to make a solemn affirmation that they would faithfully try the case and give a true verdict according to the evidence. Third, they would have been advised, in accordance with the standard jury guidance, to bring any concerns to the attention of the trial judge and not to discuss the case with anyone outside the jury. Fourth, in line with normal practice, they would have received directions from the trial judge as to how to approach the case and the evidence presented.

41. Both of the jurors in question drew to the attention of the trial judge at an early stage in the trial proceedings the fact that they were, or had been, police officers. In the case of the serving police officer, he also indicated that he recognised a police officer sitting in the courtroom. The trial judge promptly invited submissions from counsel and appropriate investigations were made. A list of questions was put to the serving police officer juror in order to identify the nature and extent of his knowledge of the officer in the courtroom and the police officer witnesses in the case. The applicant was fully involved in these proceedings and was informed of the proposed questions before they were put (see paragraphs 8-15 above).

42. Of some importance is the position of defence counsel throughout the proceedings. In respect of the retired police officer juror, counsel made it clear that he would advise the applicant that the presence of a police officer juror, even a serving one, did not raise concerns provided that the officer juror had no knowledge of the case, the parties or the police officer involved in it (see paragraph 8 above). He was given the opportunity to investigate the retired police officer's connections with the case and following adjournment did not challenge the continued presence of the juror (see paragraph 10 above). As regards the serving police officer juror, defence counsel addressed the judge and was given the opportunity to clarify the exact nature of the information he required as to the juror's connection with the case and the officer in the courtroom (see paragraph 13 above). He was informed of the list of questions then drawn up and did not seek to modify or add to them (see paragraph 15 above). Following the juror's questioning, defence counsel confirmed that he was "quite happy that the juror may continue to serve" (see paragraph 16 above). It is clear from the transparent inquiries into the two police officer jurors that the defence had every opportunity to object to the continued presence of the men on the jury but chose not to do so.

43. Of further relevance is the nature of the connection between the jurors and other participants at trial. There was no suggestion at any stage that the retired police officer was acquainted with any other person involved in the trial proceedings or in the courtroom (see paragraph 8 above). The serving police officer recognised a man sitting in the courtroom, but did not know why he was present and was wholly unaware of his involvement as the officer in the case (see paragraph 12 above). He was shown a list of the police officer witnesses and confirmed that he knew none of them (see paragraphs 14-15 above). This is not a case where a police officer who was personally acquainted with a police officer witness giving relevant evidence was a member of the jury (compare and contrast Hanif and Khan, cited above).

44. Finally, it is noteworthy that the applicant's defence did not depend to any significant extent - if at all - upon a challenge to the evidence of the police officer witnesses in his case (see the finding of the Court of Appeal at paragraph 21 above). Indeed, this was confirmed by his own counsel (see paragraph 9 above). He admitted that he had killed the victim and the only

obligation which can be enforced in a court, or in this case, in this Tribunal. There is also substantial and effective parliamentary oversight of the Intelligence Services as protection against arbitrary interference or unlawful use of powers by them. They are also supervised by the Interception of Communications Commissioner, appointed (for relevant purposes) under s.57(1) of RIPA, independent from Government and the Intelligence Services. He too has a staff to assist him with his functions, which include a constant review of the Intelligence Services.

Essentially, counsel for the claimants submitted that there were "different levels of "prescribed by law", and that, as they put it, "we don't necessarily say exactly the same [level], but one [has] to have something at least approaching the "prescribed by law" standards, set out in Weber etc, when it is communications intercepted by the US and then accessed here, received here, analysed here" (the Strasbourg case of Weber and Saravia v Germany [2008] 46 EHRR).

The Respondents contended that in practice it would be "inappropriate and unnecessary" to differentiate between the different kinds of information which might be supplied e.g. to foil a bomb plot in London, and impracticable to try to draw a distinction between information derived from intercept and not so derived or to seek explanations or make enquiries from NSA or any other agency as to whether information supplied did or did not derive from Prism or any other system of interception.

In the Tribunal's view, information obtained in the field of national security is much less is required to be put in the public domain, and the degree of foreseeability must be reduced, because otherwise the whole purpose of the steps taken to protect national security would be at risk. The views of the Strasbourg Court endorse that position: see para 51 of Leander v Sweden [1987] 9 EHRR 433: the requirement of foreseeability in the special context of secret controls of staff in sectors affecting national security cannot be the same as in many other fields. Thus, it cannot mean that an individual should be enabled to foresee precisely what checks will be made in his regard by the Swedish special police service in its efforts to protect national security.

The Tribunal was therefore satisfied that in the field of intelligence sharing it is not to be expected that rules need to be contained in statute or even in a code: It is in our judgment sufficient that: Appropriate rules or arrangements exist and are publicly known and confirmed to exist, with their content sufficiently signposted, such as to give an adequate indication of i They are subject to proper oversight.

Some of these arrangements may be, of necessity, secret or "below the waterline", but the Tribunal has the advantage of being able to hear the details in closed session and assess their adequacy. The Tribunal did do not accept the claimants' contention that the holding of a closed hearing, as they had carried it out, was unfair. It accords with the statutory procedure, and facilitates the process [of scrutinising the obtaining and use of information by the security services]. This enables a combination of open and closed hearings which both gives the fullest and most transparent opportunity for hearing full arguments inter partes on hypothetical or actual facts, with as much as possible heard in public, and preserves the public interest and national security.

The Tribunal's conclusions on the Prism issue: As far as arrangements "below the waterline" were concerned, the Tribunal was satisfied that there were adequate arrangements in place for the purpose of ensuring compliance with the statutory framework and with Articles 8 and 10 of the Convention, so far as the receipt of intercept from Prism and/or Upstream is concerned. Insofar as this was not in itself – because the arrangements must be sufficiently accessible to the public – the Tribunal was satisfied that these arrangements were "sufficiently signposted" by virtue of the statutory framework under the 1989 Act. The scope of the discretion conferred on the Respondents to receive and handle intercepted material and com-

munications data and the manner of its exercise, were accordingly accessible with sufficient clarity to give the individual adequate protection against arbitrary interference. There was therefore no breach of Article 8 in the Prism/Upstream system.

The Tribunal also made short work of Amnesty International's somewhat curious argument that the United Kingdom owes a positive obligation under the Convention to prevent or forestall the United States from intercepting such communications; such a duty would extend to not acquiescing in such course by receiving the product. How such a duty would be enforceable by Amnesty International or anyone else is open to question, and even though the Convention's extra-jurisdictional reach has been extended to near breaking point by various judgements from Chahal on, there is still no authority which imposes any obligation on the part of contracting states to secure that non-contracting states, acting within their own jurisdiction, respect the rights and freedoms guaranteed by the Convention, even if the failure of such non-contracting states to do so may have adverse effects on persons within the jurisdiction of contracting states.

The Section 8(4) RIPA Issue (Issue no. (ii): Warrants to intercept communications can be obtained under RIPA, mainly by the Director General of MI5, the Chief of MI5 and the Director of GCHQ. Only exceptionally will an interception warrant be issued without the say so of the Home Secretary or the FCO. Of the two types of warrants – the "targeted warrant" under Section 8(1) and the "untargeted warrant" under 8(4), it was the latter that was under challenge in this case because the Act contains authorisation to intercept communications "not identified by the warrant". In effect that means an interception warrant can be used to obtain internal messages from communication between two foreign parties, even though on the face of it Section 8(4) "untargeted" warrants should only be aimed at external communications.

Arguments before the Tribunal: In its skeleton argument, Amnesty, in the judge's words, "hyperbolically describes the Respondents' purpose as "to obtain data wholesale from every living human being with a working internet connection", although the claimants' oral submissions were somewhat narrower than that. They alleged that the Intelligence Services operate a programme, described as Tempora, under which fibre optic cables are intercepted. This involves making available the contents of all the communications and communications data being transmitted through the fibre optic cables. The intercepted communications and communications data may be retained for an indefinite period and automatically searched through the use of a large number of search terms, including search terms supplied by the United States National Security Agency. The intercepted communications and communications data may then be further retained, analysed and shared with other public authorities.

Burton J summarised the Claimants' case thus: (1) Is the difficulty of determining the difference between external and internal communications, whether as a theoretical or practical matter, such as to cause the s.8(4) regime not to be in accordance with law contrary to Article 8(2)? (2) Does the RIPA lay down sufficient safeguards in order to render the interference with Article 8 in accordance with law? (3) Is the regime governing interception sufficiently compliant with the requirements laid down in Strasbourg (in particular, Weber and Saravia v Germany [2008] 46 EHRR), insofar as such is necessary in order to be in accordance with law? The relief sought was effectively for a declaration that the Respondents had acted unlawfully in violation of the Claimants' rights under Articles 8 and 14 ECtHR.

The crux of the Claimants' case was that there been a "sea-change" in technology since 2000 which meant that, by virtue of the blurring of the distinction between external and internal communications, s.8(4) was no longer, 'fit for purpose'. The response from the government

the police officer juror. He submitted that the police inspector sitting in court and the serving police officer juror ought, at the very least, to have been questioned on their connections pre-trial and on whether they had met outside the courtroom during trial and discussed the case.

28. The applicant also suggested that the jury process had been manipulated in order to ensure the presence of serving and retired police officers on the jury. He was not persuaded that this had happened by chance. He also contended that the retired officer had become the jury foreman. The applicant further argued that in fact a dispute on the police evidence had subsequently arisen at trial.

30. Finally, he contended that no issue, including the question of whether he had acted in self-defence, could have been proven to a jury so influenced by two police officers from the investigating force who had physically assaulted him during police questioning.

2. The Court's assessment (a) General principles

35. It is of fundamental importance in a democratic society that the courts inspire confidence in the public and above all, as far as criminal proceedings are concerned, in the accused. To that end the Court has constantly stressed that a tribunal, including a jury, must be impartial from an objective as well as a subjective point of view (Hanif and Khan, cited above, § 138)

36. The personal impartiality of a judge or a jury member must be presumed until there is proof to the contrary. As to whether the court was impartial from an objective point of view, this Court must examine whether in the circumstances there were sufficient guarantees to exclude any objectively justified or legitimate doubts as to the impartiality of the jury bearing in mind that the misgivings of the accused, although important, cannot be decisive for its determination. While the need to ensure a fair trial may, in certain circumstances, require a judge to discharge an individual juror or an entire jury it must also be acknowledged that this may not always be the only means to achieve this aim. In other circumstances, the presence of additional safeguards will be sufficient (Hanif and Khan, cited above, §§ 139-140).

37. It does not necessarily follow from the fact that a member of a tribunal has some personal knowledge of one of the witnesses in a case that he will be prejudiced in favour of that person's testimony. In each individual case it must be decided whether the familiarity in question is of such a nature and degree as to indicate a lack of impartiality on the part of the tribunal (Hanif and Khan, cited above, § 141). However, where there is an important conflict regarding police evidence in the case and a police officer who is personally acquainted with the police officer witness giving the relevant evidence is a member of the jury, jury directions and judicial warnings are insufficient to guard against the risk that the juror may, albeit subconsciously, favour the evidence of the police (Hanif and Khan, cited above, § 148).

38. Finally, it is also relevant to consider whether defence counsel, in the knowledge of the salient facts, objected to the continued presence of the juror in question at trial (see, mutatis mutandis, Adetoro v. the United Kingdom, no. 46834/06, § 55, 20 April 2010; and Boyle and Ford v. the United Kingdom (dec.), nos. 29949/07 and 33213/07, § 41, 22 June 2010; Welke and Bia_ek v. Poland, no. 15924/05, § 77, 1 March 2011). In this respect, the Court will have regard to whether any course of conduct proposed by the trial judge to address any issue of procedural fairness was the subject of discussion between the judge and counsel prior to its being carried out (see, mutatis mutandis, Boyle and Ford, cited above, § 42).

(b) Application of the general principles to the facts of the case

39. As noted above, the personal impartiality of a jury member is presumed until there is proof to the contrary. The Court observes that there is no evidence of actual partiality on the part of either the retired or the serving police officer during the trial and it will accordingly examine whether there

for prisoners introduced last year by the Secretary of State for Justice were unlawful. Mr Justice Collins further pointed out in his ruling that because of various cuts libraries can be inadequate in meeting prisoners' needs. I declare an interest in that I was for many years a book publisher. Does the Minister agree that reading can be a vital part of rehabilitation and that improved literacy is crucial for future employment? Is it not now time to end the restriction on prisoners receiving books from family and friends?

Lord Faulks: I thank the noble Baroness for her question. It was a surprising judgment. It related to HM Prison Send, which I recently visited with the noble Lord, Lord Howarth, who sits two places away from the noble Baroness. We visited both libraries there and spoke to the librarian. We attended a readers' group. Frankly, the provision of books was excellent. There were a number of books written by noble Lords or their relatives. There is no ban on books. There is only an attempt to restrict bringing in drugs, via parcels, inside books. If you are a prisoner you can get books.

Lord McNally: I declare an interest as chair of the Youth Justice Board for England and Wales. Does the Minister not agree that the most effective work in prison is that which leads to employment outside? Would he like to take this opportunity to commend those employers who have participated in Through the Gate training towards getting a prisoner a job after imprisonment as a means of rehabilitation and urge other employers to join this scheme?

Lord Faulks: I am happy to take that opportunity. The Employers Forum for Reducing Reoffending, which includes employers such as Greggs, DHL and Timpson—the forum is chaired by James Timpson—is providing a valuable service. Halfords is also a recent addition. They offer employment, which is usually in prison, which can then provide a bridge into employment in the community. That is a very important contribution and I am happy to acknowledge it. House of lords / 8 Dec 2014 : Column 1599

Peter Armstrong v. the United Kingdom (no. 65282/09)

The case concerned the presence of retired and serving police officers on the jury at a trial for murder. The applicant, Peter Charles Armstrong, is a United States national who was born in 1955 and is currently detained at HM Prison Long Lartin, Evesham (England).

Mr Armstrong was convicted of murder in January 2008 and sentenced to life imprisonment with a tariff of 13 years. He was convicted by a jury which contained a retired police officer as well as a serving police officer. On appeal he alleged that his conviction was unfair due to the presence of a serving police officer on his jury. In November 2008 he was refused permission to appeal, the judge considering that the police evidence was not in dispute (the main question for the jury being whether Mr Armstrong had acted in self-defence or not) and that Mr Armstrong's trial counsel, after full inquiry, had made no objection to either the retired or the serving police officer sitting on the jury. In June 2009, following an oral hearing, the Court of Appeal also refused permission to appeal, finding that Mr Armstrong's conviction was safe.

Admissibility 25. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible. The applicant was granted permission by the President of the Section to represent himself in the proceedings before the Court.

27. In his written submissions, he claimed that the judge had given no explanation in writing of why the serving police officer juror had been permitted to continue as a jury member. He disputed the Government's claim that a list of questions had been drawn up by the trial judge to be put to

was that the real world necessitated broad interception of communications, which included internal material, and unless the claimants were asking for an order that the Intelligence Services should not be able to obtain the external communications at all, that is what they would have to put up with. The Tribunal agreed, broadly, given the borderless nature of modern communications technology: It is inevitable that, when a telephone call is made from a mobile phone or IPhone, or an email is sent to an email address, it will not necessarily be known whether it will be received in the United Kingdom or in the course of travel or at a foreign destination. It is accepted that once and if received abroad by the intended recipient it will be an external communication, even if the sender did not know, when he or she made the call or sent the email, that that was to be the case.

The Tribunal made detailed reference to a similar action brought by Liberty where the IPT almost exactly ten years ago made a ruling in relation to the "untargeted warrant" regime (the British Irish Rights Watch case). Here, the IPT gave considerable weight to the Strasbourg authorities' observations about the foreseeability requirement in a 1993 case. The Commission's musings are worth setting out because they do set a slightly different test for this requirement when national security is at stake: It is clear from the Sunday Times case at para 49 that foreseeability is only expected to a degree that is reasonable in the circumstances, and the circumstances here are those of national security, as discussed in Klass v Germany and Leander v Switzerland. … In this case the legislation is adequate and the guidelines are clear. Foreseeability does not require that a person who telephones abroad knows that his conversation is going to be intercepted because of the existence of a valid s8(4) warrant.

The Tribunal in the instant case saw no reason to doubt its conclusions in British Irish Rights Watch, notwithstanding the more recent Strasbourg decision in Weber. Whilst the Claimants argued that the Strasbourg's approach may have evolved since the Commission considered the UK's surveillance system in Christie, the Tribunal saw no reason to depart from its earlier interpretation of Strasbourg's position in 2004. The RIPA Code that has since been put in place, governing the authorising and processing of interception warrants, is quite sufficient to satisfy the ECHR requirements of foreseeability, and thus justifies the interference under Article 8(2).

The Tribunal's conclusions on the RIPA issue: Although Article 8 was engaged by "untargeted warrants", the safeguards provided by RIPA meant that interference with private communications under Article 8 was justified and proportionate. One prong of the Claimants' challenge was that the term "national security" was too vague to justify intrusion with individuals' private communications. But even in Strasbourg, this argument is a non-starter: the term "national security" is frequently employed in both national and international legislation and constitutes one of the legitimate aims to which Article 8(2) itself refers. The Court has previously emphasised that the requirement of "foreseeability" of the law does not go so far as to compel States to enact legal provisions listing in detail all conduct that may prompt a decision to deport an individual on "national security" grounds. By the nature of things, threats to national security may vary in character and may be unanticipated or difficult to define in advance." (Kennedy v United Kingdom [2011] 52 EHRR 4, para 159) Quite.

Final decision: The Tribunal ruled that the current regime, both in relation to Prism and Upstream and to s.8(4), when conducted in accordance with the requirements both written into the legislation, the code and Parliamentary supervision, was both lawful and human rights compliant. Technology in the surveillance field appears to be advancing at break-neck speed. This has given rise to submissions that the UK legislation has failed to keep abreast of the consequences of these advances, and is ill fitted to do so; and that in any event

Parliament has failed to provide safeguards adequate to meet these developments. All this inevitably creates considerable tension between the competing interests, and the 'Snowden revelations' in particular have led to the impression voiced in some quarters that the law in some way permits the Intelligence Services carte blanche to do what they will. We are satisfied that this is not the case. We can be satisfied that, as addressed and disclosed in this judgment, in this sensitive field of national security, in relation to the areas addressed in this case, the law gives individuals an adequate indication as to the circumstances in which and the conditions upon which the Intelligence Services are entitled to resort to interception, or to make use of intercept. [paras 158 – 159]: Guided by these conclusions, the Tribunal will now proceed to consider in closed session whether there has been in fact any unlawful interception or treatment of the Claimants' communications.

There are no 'Riots' in Prisons - Just 'Concerted Indiscipline'

The term "riot" is not a category that is used to record incidents in prison. Incidents where two or more prisoners act together to defy a lawful instruction or against the requirements of the regime of the establishment are all recorded as Concerted Indiscipline. Concerted indiscipline incidents vary widely in nature and duration and many of these incidents are relatively minor and of short duration and cause little disruption to the prison regime. Only a very small number of these incidents are serious enough to require external support from specialist intervention teams and the number of such interventions has not increased over recent years. Andrew Selous, Secretary of State for Justice

However though Mr Selous says intervention has not increased the number of reported incidents of 'Concerted Indiscipline, have risen by over 50% since 2010, in 2010 there were 104 incidents. To September this year, there were 153 incidents of 'Concerted Indiscipline' and that is just for the first nine months of 2014. Since September there have been many more incidents, not doubt there will be many more before the 31st December.

Extra Staff Called Upon To Tackle 60-Strong HMP Haverigg Protest

Emergency procedures had to be put in place at a Cumbrian jail after more than 60 inmates refused to go back to their cells. Prison bosses were left stunned at the impromptu protest at HMP Haverigg, which has stoked fears that overcrowding and understaffing in jails are reaching crisis point. The inmates took part in what prison bosses have described as a "peaceful protest" last month and prison sources said the jail had to implement its Tornado response to bring the situation back under control. Staff were drafted in from neighbouring jails to try to bring the situation under control though the refusal to go inside for "lock-up" did not involve any violence. It is understood staffing levels at HMP Haverigg could have made it easier for inmates to refuse to return to their cells. A source at the prison said: "It would be easier with more staff but that's the same all over the country."

Andrew Neilson, director of campaigns at the Howard League for Penal Reform, said: "The prison system is in meltdown. Jails are struggling to cope with a toxic mix of chronic overcrowding, growing prisoner numbers and deep staff cuts. This has led to an alarming rise in the number of suicides in prisons, as well as increased reports of assault, bullying and self-harm. Having fewer staff means restricted regimes, with prisoners spending up to 23-hours-a-day locked in their cells. Given these conditions, it should surprise no-one if we see a rise in the number of call-outs to prisons." Recent research by the Howard League revealed a 43 per cent drop in staff

Derisory increase to 15% in the numbers working in prisons

Lord Ramsbotham to ask Her Majesty's Government why there has only been a one per cent increase in the number of prisoners in England and Wales at work since 2010.

Minister of Justice Lord Faulks: The number of prisoners working in industrial activity reported by public sector prisons increased from around 8,600 in 2010-11 to around 9,900 in 2013-14, an increase of 15%. Over the same period, the total number of hours worked increased by 33% from 10.6 million to 14.2 million in public sector prisons. That excludes activity such as cooking, serving meals, maintenance and cleaning, and work placements undertaken by offenders on release on temporary licence.

Lord Ramsbotham: I thank the Minister for that Answer. The derisory increase to 15% in the numbers working in prisons is matched by a decrease by 2% since 2012 in the numbers of those who get work on leaving prison. Despite all the rhetoric we have had, recently a prison governor was brave enough to tell a court of the effects of the imposed new way of working in prisons, which has resulted in staff cuts and not enough work for prisoners to do. Only last week, G4S told the Justice Select Committee in another place that the ability of governors to govern their prisons was being undermined by government policy. Furthermore, the increase by 69% of the numbers who commit suicide raises the possibility of a charge of corporate manslaughter. Can the Minister please tell the House when Ministers—with the notable exception of Simon Hughes, who has been brave enough to admit that there is a crisis in our prisons—will stop fudging the public about what is happening in our prisons?

Lord Faulks: I do not accept the noble Lord's characterisation of what is happening in prisons. We have increased the number of working hours. Our aim is to replicate as far as possible the normal working week in the community, real work experience and the acquisition of skills, which support effective rehabilitation. As to deaths in custody, any death is a tragedy. We have a number of different ways of investigating them. A review chaired by the noble Lord, Lord Harris, is looking into the deaths in custody of 18 to 24 year-olds and we are expecting its report in April next year. We have a number of measures in place to ensure that those unfortunate incidents can be reduced.

Lord Beecham: On 27 November I asked about prison overcrowding and staff shortages. In an uncharacteristically peremptory tone the Minister replied that he did not share my gloom, that the work done in prisons is of a very high standard and that we have a dedicated body of prison officers. What is the ratio of officers to prisoners now compared to 2010? What is the Government's response to the worrying report on work-related stress among prison officers and the well-being of prison officers produced by the occupational health and occupational psychology departments of the University of Bedfordshire?

Lord Faulks: We are alays concerned for the welfare of prison officers, who do a very fine job indeed. Benchmark reports incorporate staffing resources for escorting and patrolling activity areas. We are satisfied that prison officers are enabling people to do the work, which was the subject of the original Question. We are recruiting more prison officers but we are satisfied that they are doing an excellent job.

Baroness Sharples: How many prisons have writers in residence and would it not be helpful if there were more of them?

Lord Faulks: I am not able to give an answer as to the number of writers in residence, but I agree with my noble friend that literature and writers can contribute very considerably.

Baroness Rebuck: My Lords, last week the High Court ruled that restrictions on books

to report that most staff treated them with respect and more likely to report having an emotional or mental health problem. A higher proportion of boys said they were not involved in any activities at the time of the survey – 14% compared with 10% in 2012-13.

The report also found that: - most boys (85%) said they were aged 16 or 17, 4% said they were 15 and 11% that they were 18; - a third said they had been in local authority care at some point; - 11% said they had children; - only 4% said they were foreign national; - 41% of boys said they were from a black and minority ethnic background; - two-fifths (42%) of boys said they were Christian and 22% that they were Muslim; - 6% said they had a Gypsy, Romany or Traveller background; and - almost four-fifths (78%) said they were sentenced, with almost half serving less than 12 months. In April 2012, HM Inspectorate of Prisons, Ofsted and the Care Quality Commission began joint inspections of STCs. This report includes the second annual summary of children and young people's experience of STCs. The report found that in 2013-14: - 37% said that they were under the age of 16 at the time of the survey; - 11% reported being Gypsy, Romany or Traveller; - 43% of young people said they were from a black or minority ethnic background; - 14% said that they were Muslim; and - 22% said that they had a disability.

There were only six statistically significant differences from the 2013-14 and 2012-13 survey responses, which all showed an improvement in responses in 2013-14. These included children reporting better treatment/support by staff on arrival, and more children saying they had received advice/skills training to help them with jobs on release.

Nick Hardwick said: "These are self-reported perceptions and experiences and as such cannot answer on their own how safe, respectful and purposeful the youth custody estate and individual establishments are. However, this unique insight into children's own perceptions of their experience of custody should be of importance to policy makers, academics and all who have a concern about the treatment and conditions of children in custody. What children tell us about themselves and their time in custody should be listened to and used, both to prompt further exploration of the questions raised by their responses and to help shape the major changes to the youth custody estate that are now planned."

Lin Hinnigan, Chief Executive of the Youth Justice Board, said: "We are pleased to be able to work with HM Inspectorate of Prisons to ensure that young people in custody are given the opportunity to have their say on the services that they receive whilst in our care. We carefully consider the opinions expressed by those currently in the youth secure estate, together with other sources of information and data. This helps us to improve the standards we set for our service providers and can also help inform policy-making across the youth justice system."

Shit Throwing Inmates Keep Prison Officers at Bay for Seven Hours *Source Metro.co.uk*

Prison warders were pelted with human waste during a seven-hour stand-off with inmates. The dirty protest came when approximately 30 inmates refused to go back to their cells at the all-male category C HMP Humber. Two of the prison's guards were injured in the dispute, according to the Hull Daily Mail. Peter McParlin, chairman of the Prison Officers' Association, said: 'From what I can gather about the incident, officers had excrement put over them. It's absolutely disgusting and it shows the type of thing that our members have to put up with, and all for a starting salary of £18,000.' The Ministry of Justice said in a statement: 'A disturbance at HMP Humber, involving a small number of prisoners and confined to one wing of the prison, was successfully resolved on December 3. Two prison officers were treated for minor injuries at hospital and have since been released. An investigation will take place.'

at Haverigg in the last four years, from 140 to just 80 staff managing the 638 inmates.

The prison recently announced it would recruit 10 new prison officers after a three-year recruitment freeze and the Ministry of Justice says retired officers have been sent invitations to return to work. Research published by the charity shows nationally there were only 14,170 officer grade staff working in prisons run by the state at the end of June 2014. There were more than 24,000 at the end of August 2010. A Prison Service spokeswoman said: "A number of prisoners took part in a passive protest inside the prison. There were no injuries to staff or prisoners and all prisoners were returned to their cell the same evening." Tornado is a national programme which refers to mutual aid arrangements across jails in England and Wales. The measures are in place to help respond to serious incidents by providing trained resources in addition to those already in place at prisons.

McDonnell v UK - Excessive Delay in Inquest Proceedings Violation of Article 2

It is well established that Article 2 requires an investigation to begin promptly and to proceed with reasonable expedition, and that this is required quite apart from any question of whether the delay actually impacted on the effectiveness of the investigation. While there may be obstacles or difficulties which prevent progress in an investigation in a particular situation, a prompt response by the authorities in investigating an alleged use of lethal force may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts. The Court considers it striking that Mr McDonnell died in March 1996 and that the inquest proper did not begin until April 2013, more than seventeen years later.

Whatever the individual responsibility, or lack of responsibility, of those public officials involved in the investigation process, these delays cannot be regarded as compatible with the State's obligation under Article 2 to ensure the effectiveness of investigations into suspicious deaths, in the sense that the investigative process, however, it be organised under national law, must be commenced promptly and carried out with reasonable expedition. The applicant, Elizabeth McDonnell (no. 19563/11), is an Irish national who was born in 1939 and lives in County Antrim (Northern Ireland). The case concerned her complaint about the investigation into the death of her son in police custody. On 30 March 1996 Ms McDonnell's son, James McDonnell, was found unconscious in an isolation cell in HMP Maghaberry following an incident during which he had had to be restrained by prison officers. All attempts to resuscitate him were unsuccessful. An initial autopsy concluded that Mr McDonnell had died from a heart attack and that the possibility that the stress of the incident when he was restrained could have played some part in his death could not be completely ruled out.

Prisoner officers were interviewed in March and May 1996 and, a year later, in May 1997, the prosecuting authorities gave a direction not to prosecute anyone in connection with the death. For various reasons, including relevant pending litigation, the inquest did not commence until April 2013. It ended in May 2013, concluding in particular that the factors which had contributed to Mr McDonnell's fatal heart attack were: the initial restraint by prison officers; neck compression; the control and restraint procedure carried out against him; an underlying heart condition; and emotional stress. The inquest further found that there had been a failure in the duty of care towards prisoners in Mr McDonnell's case. The case was referred back to the prosecuting authorities and a decision whether to commence any criminal prosecutions is currently pending.

Relying in particular on Article 2 (right to life), Ms McDonnell notably complained about the excessive delay in the inquest proceedings. Violation of Article 2 (procedure) – by reason of excessive investigative delay Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 8,000 (costs and expenses)

Fight Against Death Penalty Council of Europe Condemns US

The Council of Europe Committee of Ministers welcomes the decision of the New Orleans Fifth Circuit Court of Appeals to stay the execution of Mr Scott Panetti, who suffers from serious mental illness. However, the Committee regrets the executions of Robert Wayne Holsey, which took place in the State of Georgia yesterday, and of Paul Goodwin this morning in Missouri, thus bringing to 35 the number of executions carried out this year. The Committee of Ministers notes at the same time with hope that there has been a consistent decrease in executions in the USA for a number of years and the number of States applying the death penalty has also decreased.The Committee of Ministers is concerned with the fact that during 2014, several executions were carried out in particularly dire circumstances. This situation led some US States to reflect on ways to improve the practice using different methods of execution or to have recourse to measures that would imply keeping secrecy on certain information related to the procedure, which would be a setback in the framework of a democratic society. The Committee of Ministers would like to urge the US authorities at different levels, instead of adopting measures to improve this practice, to use the opportunity given by these latest developments to reach the conclusion that there is no legitimate and clean way to continue with this inhumane practice and violation of human dignity. The Committee of Ministers reiterates its unequivocal opposition to the death penalty in all circumstances and calls on the USA, an Observer State to this Organisation, to establish a moratorium on the death penalty as a first step towards its total abolition.

Thames Valley Police Officer Dismissed Following IPCC Managed Investigation

Constable Richard Davis faced a misconduct hearing on 2nd December, at which an allegation he had an inappropriate relationship with a victim of domestic abuse was upheld. The panel concluded PC Davis breached the standards of professional behaviour relating to honesty/integrity/authority/respect/courtesy/discreditable conduct, and those breaches amounted to gross misconduct. IPCC Associate Commissioner, Guido Liguori said: “The legal powers given to police officers provide them with a certain status and influence. Richard Davis used that position to develop an inappropriate relationship with a woman who was vulnerable because of a history of domestic abuse. Officers like Richard Davis have no place in policing and it is right that he has been sacked.”

'SmartWater' to Catch Domestic Abusers

Scottish police areenergetically promoting 'SmartWater'the commercial product to tackle housebreaking - they have launched a pilot project to prevent assaults in the home. 'SmartWater' - an invisible liquid sprayed on items or buildings as a forensic marker - is normally used to identify stolen goods or thieves. Police hope to use it to mark the homes of the victims of serial abusers in East Dunbartonshire to see if it can link perpetrators with the scene of their crimes. The force is particularly keen to use the product to build cases against abusers who breach their bail conditions by visiting, for example, the home of an ex-partner. Chief Inspector Rob Hay said: "We are focusing our efforts towards targeting repeat offenders and serial offenders and making our position absolutely clear that this type of behaviour is unacceptable and that, with our partners, we will continue to challenge those who are responsible. "We believe this approach will lead to an increase in confidence for people to come forward to report abuse." The SmartWater pilot will be funded by East Dunbartonshire Council via Empowered, a multi-agency partnership tackling abuse. The pilot project will take place over the festive period, when abuse calls traditionally peak.

Geisterfer v Netherlands Trial Within a Reasonable Time or Release Pending Trial

Richard Geisterfer (application 15911/08), is a Netherlands national who was born in 1962 and lives in Amsterdam. The case concerned his detention on remand. Mr Geisterfer was arrested in early 2006 on suspicion of membership in a crime ring – organised by a well-known criminal who had been convicted of serious offences in the past – and placed in detention on remand. The order for his detention was subsequently renewed on several occasions.

His detention on remand was suspended in May 2007, as the trial was adjourned, one of his co-accused – the well-known criminal – requiring heart surgery followed by a recovery period of several months. When the trial was resumed in late September 2007, Mr Geisterfer was again placed in detention on remand. His request for the measure to be lifted altogether – in his submission, his temporary release had had no detrimental consequences – was dismissed. He was eventually released in early December 2007, the trial court having decided that his sentence was not likely to be longer than the time he had spent in detention on remand. In a judgment of 21 December 2007, he was convicted as charged; in October 2010, on appeal, his conviction was upheld and he was sentenced to 18 months’ imprisonment, six of which were suspended.

Relying on Article 5 §§ 1 (c) and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) of the European Convention on Human Rights, Mr Geisterfer complained that from late September until early December 2007 he had been detained without adequate justification.Decision - Violation of Article Article 5 §§ 1 (c) and 3: Just satisfaction: 5,440 euros (EUR) (non-pecuniary damage) and EUR 94 (costs and expenses).

Insights Can be Gained From Listening to Children in Custody

Policy makers involved in reshaping the youth custody estate should listen to what children tell us about themselves and their time in custody, said Nick Hardwick, Chief Inspector of Prisons. In his published thematic report on the results of surveys of children in custody. The report, Children in Custody 2013-14: an analysis of 12-18-year-olds’ perceptions of their experience in secure training centres and young offender institutions, published jointly with the Youth Justice Board (YJB), sets out how children describe their own experience of imprisonment.

Over the past five years there has been a welcome drop in the number of children in custody and in response, several young offender institutions (YOIs) have been decommissioned and girls are now only held in secure training centres (STCs) or secure children’s homes. Most children in custody are there for serious offences. Research has shown that the characteristics of children in custody are different from those of the general child population: they are more likely to have education, health (including mental health) and family issues. The government has set out plans to reform the youth custody estate, replacing STCs and YOIs with a fewer number of larger secure colleges to hold the majority of children in custody. The aim is to improve the standard of academic and vocational training provided to children in custody.

Compared with last year’s YOI survey responses, there were five questions where the 2013-14 responses were an improvement. This included a higher proportion of boys reporting that they could shower, use the telephone and go outside for exercise each day. There were 39 questions where the responses were a deterioration from the 2012-13 responses. In 2013-14, boys reported a poorer experience during their first few days, including feelings of safety on their first night, being offered help on arrival and information about being upset. Boys were more likely to report having been restrained (38% in 2013-14 compared with 30% in 2012-13) and having spent a night in the care and separation unit. Boys were less likely in 2013-14