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Presumption of Innocence Exists in Theory, Not Reality *Keith Findley, Washington Post*

If, as the Supreme Court has consistently declared, the presumption of innocence is among the most fundamental principles in our criminal justice system, it is also among the most fragile. The presumption is under constant assault from jurors' natural assumption that if someone is arrested and charged with a crime, he or she must have done something wrong. It is also vulnerable to the media frenzy around high-profile cases, the fear-driven politics of crime, the highly punitive nature of our culture and the innate cognitive processes that produce tunnel vision and confirmation bias.

Indeed, research suggests that the presumption of innocence exists more in theory than reality. In studies, mock jurors predict a 50 percent chance of voting to convict — before hearing any evidence. Other research shows that while simulated jurors initially assign low probabilities of guilt, they abandon the presumption of innocence promptly as prosecution evidence is introduced. Given these natural inclinations, one would think a system built on the presumption of innocence would protect and reinforce that presumption. But in many ways, it does not. Pretrial bail policies, for example, are not based on assessments of any likelihood of innocence or the need for innocent people to prepare for their defense, but solely on the risk that the (presumably guilty) accused might not appear for trial. On this score, the presumption of guilt accelerated in the early 1970s when notions of preventive detention — that is, complete denial of bail — emerged as part of the Nixon administration's mission to control "criminals" before they committed crimes.

The presumption of innocence is undermined in practice, as well. Police are trained to act on a presumption of guilt in ways that exacerbate natural tendencies toward confirmation bias. Police are trained, for example, to make quick assessments of guilt and to interrogate suspects, not to learn information about the case, but to obtain a confession that confirms their suspicions. It need not be that way. Police in other countries, most notably the United Kingdom, are trained not to interrogate as if they know the answers to their questions. Instead, they embrace "investigative interviewing," in which they employ probing, non-accusatory questions designed to elicit information. Unlike police in the United States, they are not permitted to lie to suspects about evidence to trick them into confessing. And yet this process does not impede their ability to investigate crime; suspects in the United Kingdom confess at roughly the same rate as suspects in the United States.

All of these assaults on the presumption of innocence — and the systemic failures to resist them — are on vivid display in the Netflix documentary series "Making a Murderer," about the murder trials of Steven Avery and his nephew, Brendan Dassey. Regardless of whether Avery and Dassey are actually innocent or guilty — on that question I make no claims here — the series effectively shows how seriously compromised was the presumption of innocence. The public reaction to the case today is 180 degrees from the public's reaction to Avery's arrest in Teresa Halbach's murder in 2005. As much as the public today is horrified by the apparent rush to judgment and questionable tactics used to convict Avery and Dassey, the outrage was aimed squarely at Avery and Dassey at the time of the investigation. Public judgment was swift and vicious. The crime was horrific, and the lust for retribution was palpable. The presumption of innocence had no chance. The outrage led local prosecutor Ken Kratz to hold press conference after press conference, in which he and local law enforcement investigators detailed the grisly details of their theory of the crime and the evidence, as if guilt was a given and a trial was unnecessary. It was that mood — and the attending media frenzy — that made it virtually impossible for Avery and Dassey to get affordable bail or an untainted jury anywhere in the state. The presumption of guilt was on full display.

Much can be done to protect the presumption of innocence, starting with enforcing the ethical rules against prejudicial pretrial publicity, changing the way police interrogate suspects and recalibrating pretrial release decisions to allow the innocent to prepare a defense. Following nearly any controversial case will offer many lessons about our criminal justice system. Perhaps chief among them is the feebleness of the presumption of innocence in our system today, and the need to find ways to reinvigorate that bedrock principle.

Stop 'Reckless and Irresponsible' Practice Of Destroying Court Records

Dear Mr Gove, We are writing as a group of concerned organisations, bodies and individuals working in the field of criminal appeals. As you are aware, there have been significant cuts to legal aid over a number of years. This has had a detrimental effect on criminal appeal work. You may be familiar with the US documentary Making a Murderer, available on Netflix, and the podcast Serial first broadcast at the end of 2014. For all the serious issues these two documentaries reveal about the US justice system, they highlight a criminal justice process that is far more accountable and transparent than our own. The ban on cameras in our courts means that we will never have access to the kind of 'open justice' that Making a Murderer depicts. In the US, court transcripts are easily accessible and frequently vital in successful appeal work.

By contrast, in England and Wales court transcripts are routinely destroyed after five years, and audio recordings after seven years, unless they have been placed under a preservation order. Once destroyed, the important verbatim record of what was said in court is lost forever. In some cases even the judge's summing up is destroyed and no copy is retained, which means that no record of the trial exists and there is no chance of a fair review of the case. This leaves a situation where commonly, only the stale and fragmented mess of documents from case files, often limited to police interviews, statements and reports given prior to trial, are available to those working on criminal appeals.

In the search for the new evidence needed for an appeal, this is highly problematic. Consider the case of Omar Benguit, convicted of murder in 2005 after three separate trials on the same murder charge. The court transcripts from these three trials would have provided an invaluable insight into what actually happened in the court room for the third jury to find Benguit guilty beyond reasonable doubt. Benguit has been in prison trying to clear his name since 2003 but despite this, all three sets of court transcripts were destroyed several years ago.

In this new digital age, it is both reckless and irresponsible to systematically destroy the record of court proceedings. Being able to access a record of what was said in court will work towards a more accountable criminal justice system. Appellants in our jurisdiction deserve a justice process that is both open and transparent. It is inexcusable to promote a secretive process where records of important criminal proceedings are allowed to be destroyed within an unrealistic period of time.

We respectfully ask that you, as a matter of urgency, intervene to stop the destruction of court transcripts after five years and audio recordings after seven years, as these should be accessible to an appellant indefinitely. We will also invite the Criminal Cases Review Commission to support this request. (40 notable public signatures)

US: The Way to End Prison Privatization Could be Corporate Incompetence

Chandra Bozelko, Guardian: We've farmed out so many correctional services to private corporations that criminal justice is no longer a government function. There are only two parts of the American criminal justice system that haven't succumbed to privatization, according to research released on Thursday by 'In the Public Interest': the police and the courts. Everything else – including transportation, probation, food, electronic monitoring, psychiatric and drug treatment and fine collection – has been privatized somewhere in the country.

The stories about how private corporations cut corners in prisons in order to maintain their profit margins are horrendous and, unfortunately, have become commonplace in public discourse – especially in the past year. For instance, there's Management and Training Corporation, a Utah corporation contracted to run the Eastern Mississippi Correctional Facility. It faces a class-action lawsuit for cost-cutting that became so dangerous that inmates began losing their vision and their appendages from lack of oversight and medical care. Or there's the private Prisoner Transport Services of America, which employed officers who allegedly urinated on an inmate and held a shotgun to his head last summer during a transport from Florida to Pennsylvania; it's being sued for denying a woman water during a two-day trip across Texas in August 2013. And none of that is as bad as what inmates in Florida faced, when they were powerless to protect themselves as doctors employed by a private healthcare company watched them die while treating their cancers with Tylenol.

It's not just prisoners whom private prison contractors leave in the lurch, though. Written into many of their contracts is the freedom to walk away from their agreements with the state – particularly when their profit margins diminish. Not more than six weeks ago, Corizon – the largest private correctional health care provider in the country – broke its contract with the Florida Department of Corrections after the company realized that it was facing steep civil liability for its poor performance because the number of inmate deaths had hit a 10-year high under Corizon's watch. Florida Department of Corrections secretary Julie Jones was left to figure out how to provide adequate healthcare for 75,000 people who rely on the state to stay minimally healthy. At best the Corizon pullout was cowardly; at worst it was an out-and-out admission of the company's guilt in providing substandard care to inmates. But above all, Corizon's move was a clear warning to the public agencies that contract with them: we can leave whenever we want.

Granted, Corizon did give the State of Florida six months to rearrange its correctional healthcare – as though that's a simple task. Still, nothing stops Corizon or any other private company from leaving their posts in the justice system as soon as the profit forecast looks gloomy. Moral obligation seemingly doesn't motivate these private businesses, otherwise their management of prisoners wouldn't be as bad as it clearly is to begin with. Critics of privatization want these companies out anyway so, in the long run, Corizon's abandonment of its Florida contract isn't a bad thing. Many municipalities and states have already severed their relationships with Corizon because the problems caused by privatization were too severe and too obvious.

However, many other agencies haven't terminated their private prison contracts despite ample evidence that they should. Government agencies that continue to contract with private business have essentially indentured themselves to these corporations, tolerating abuse of the government and of their prisoners because they're unprepared for the business' unanticipated departures. For example, the State of Idaho tolerated Corrections Corporation of America overbilling the state by falsifying timesheets. The State of Mississippi tolerated Geo Group's employees' smuggling drugs into and raping their inmates, though they eventually terminated their contract with the country's second-largest private prison management company.

We don't even know exactly how much these profiteers made in running prisons because they disclose only their revenue – $1.7 billion for CCA and $1.5 billion for Geo Group – but not their expenditures, which would document the ways in which they cut corners. Government agencies never relinquish their duties toward constituents: they may contract out service provision to companies, but they can't outsource their responsibility. And state and local governments can't retract their obligations when the going gets tough, like these private businesses have done already. If we dump prison profiteers before they have a chance to desert us – leaving us to fix the destruction they caused – untold millions can be reinvested in public safety rather than someone's private bank account. We've privatized too much in our criminal justice system – so much that we've essentially sold public safety and rehabilitation to the highest bidder. Now is the time for our public agencies to take back the justice system from profit-motivated corporations.

Courts and Junk Science *Alan, Shanoff,Toronto Sun*

Much has been written about junk science and how it has been used to convict innocent people of crimes they didn't commit. We need to take a much tougher look at so-called 'expert testimony' in our justice system, The infamous wrongful murder conviction of Steven Truscott in 1959 was based in part on faulty evidence concerning the time of death of Lynne Harper. According to the Ontario Court of Appeal there was "no scientific justification" for the pathologist's opinion on time of death. Years later, Dr. Charles Smith's use of junk science led to the wrongful convictions of many innocent people in the deaths of babies and children.

Flawed hair testing analysis has recently been condemned in reports by retired judge Susan Lang in Ontario and the National Association of Criminal Defense Lawyers and the Innocence Project in the United States. According to a 2009 U.S. Congress commissioned publication by the National Research Council, the legal system suffers from flawed forensics in many areas including, "fingerprints, firearms examination, tool marks, bite marks, impressions (tires, footwear), bloodstain-pattern analysis, handwriting, hair, coatings (for example, paint), chemicals (including drugs), materials (including fibers), fluids, serology, and fire and explosive analysis." In other words, pretty much everything other than DNA testing. We have a tendency to look at these flawed criminal cases as instances where the science was at fault. The reality is the science itself is not at fault. The fault lies with people.

First and foremost, we have the experts who testify in court cases. Without so-called expert witness testimony, junk science would never be introduced as evidence in court. In our adversarial system, too many experts readily join the team that retains or pays them, whether it is the prosecution or defence. These experts often lose perspective and give opinions necessary to bolster their side in the case, even though they aren't supposed to be on any side. We need better rules to weed out expert witnesses who are in fact partisans.

Second, we have defence lawyers who in many cases have not prepared thoroughly for court and conduct ineffective cross-examinations as a result. Lawyers need more training in how to attack and test expert testimony. New rules must be put in place that better allow experts to be effectively cross-examined. For example, we must make it easier to permit cross-examination on anything that might relate to the reliability of experts or their testimony.

Third, we have judges, the gate-keepers of our system, whose job it is to keep junk science out of the courtroom. Judges require more training in how to do this. Their skills have been found

wanting too many times. With such an important subject, you'd think we'd have all sorts of studies and data on the incidence of miscarriages of justice due to the use of junk science and partisan experts. In fact, there's a dearth of data on this subject. We have even less data on the frequency with which junk science and false or exaggerated expert testimony is used to sabotage legitimate civil lawsuits. Most medical negligence and personal injury cases depend on significant amounts of expert testimony. We're kidding ourselves if we think civil litigation is immune from the junk science expert testimony problems we have seen in the criminal justice system. If anything, the problem is likely more pervasive in the civil justice system where the standard of proof is lower.

It's time we held an inquiry into the use of junk science in both our criminal and civil justice systems and rooted out the experts who taint cases with junk evidence. It's not the science that is junk; it's the "experts" who spew misinformation.

Northern Ireland Independent Commission on Information Retrieval

Secretary of State for Northern Ireland Theresa Villiers: The cross-party talks that ran from 8 September to 17 November last year, which culminated in the fresh start agreement, brought us closer than ever before to consensus on the best way to deal with Northern Ireland's past. While we established much common ground, it was not possible to reach agreement on all issues. I am committed to working with the Northern Ireland parties, with the Irish Government as appropriate, and with representatives of victims and survivors, to build on the progress made during the talks. The UK Government are determined to resolve the outstanding issues that are preventing the establishment of the legacy institutions set out in the Stormont House agreement.

One of these institutions is the Independent Commission on Information Retrieval (ICIR). This will be an independent body designed to enable victims and survivors privately to receive information about the troubles-related deaths of their next of kin. As set out in the Stormont House agreement, and building on the precedent of the Independent Commission on the Location of Victims' Remains, the ICIR will be an international body. To that end, the UK and Irish Governments have signed an international agreement to enable the establishment of the ICIR and to set out its functions. Today I have placed a copy of this treaty in the Libraries of both Houses.

The ICIR will be an important institution which will help victims and survivors to seek information which it has not been possible to obtain by other means. Engagement by families with the ICIR will be entirely voluntary. Information provided to the ICIR about deaths within its remit will not be admissible in court, something which families will always be told in advance. The ICIR will not, however, provide any form of amnesty or immunity from prosecution. This Government believe in the rule of law and would not countenance such a step. As the Stormont House agreement set out, information provided to the ICIR will be protected but no individual will be protected from prosecution if evidence is obtained by other means. It is the Government's intention that the legislation needed to implement the ICIR will contain provisions clearly setting this out.

It had been our aim to lay the treaty before Parliament at the same time as introducing the legislation required to establish the legacy bodies. However, as agreement has not yet been reached on this legislation, this is not possible. Once any treaty is formally laid, Parliament has a period of 21 sitting days, in which it can resolve that the treaty should not be ratified, in accordance with the Constitutional Reform and Governance Act 2010. I believe that it would be best if this consideration took place alongside the legislation, which will contain more detail about how the ICIR will function. I propose therefore formally to lay the treaty once we are able also to introduce legislation. These particular circumstances mean that placing a copy of the

treaty in the Libraries of both Houses is an appropriate way to ensure that Parliament is aware of the text of the treaty, without instigating the formal process of consideration.

In addition to the ICIR, the Stormont House agreement envisaged the establishment of the Historical Investigations Unit, the oral history archive and the Implementation and Reconciliation Group. Together, this set of institutions provides the best opportunity to help Northern Ireland deal with its past and provide better outcomes for victims and survivors, the people who we must never forget suffered more than anyone else as a result of the troubles. The Government are committed to implementing the Stormont House agreement and to establishing the legacy bodies it contains. I will continue to meet victims' representatives and others over the coming days and weeks to discuss these matters and to build support for the new institutions.

Violent Crime Jumps 27% in New Figures *David Barrett, Telegraph*

Crime recorded by the police rose by six per cent in the year to September, including a 27 per cent jump in violence against the person, official figures have revealed. It amounted to an extra 185,666 violent offences. The Office for Nationals Statistics said: "There were also increases in some of the more serious types of police recorded violence, including a nine per cent rise in offences involving knives or sharp instruments and a four per cent increase in offences involving firearms. "Such offences are less likely to be prone to changes in recording practices though there is some anecdotal evidence to suggest that a tightening of recording procedures may also be contributing to some of the increase in some forces."

Sexual offences recorded by the police continued to show a rise which has been widely attributed to increased confidence in the criminal justice system by victims - in the latest period there was a 36 per cent year-on-year increase, or an additional 26,606 offences. The numbers of rapes, at 33,431, and other sexual offences, at 66,178, were at the highest level since the current recording methods were introduced in 2003. There were also 71 more homicides in the year, with a total of 574, compared with the previous 12 months.

In one peculiar and unexplained trend, the ONS said the jump in murders was concentrated in just one part of the country - London and the south east. "Homicides are not prone to changes in recording practice by the police," it said. Increases in homicide were concentrated in London and in police forces in the South East of England. While there was also a 19 per cent rise in offences of attempted murder recorded by the police, as with homicide, levels can fluctuate from year to year so it is too early to say whether this is the start of an emerging upward trend."

The rises in recorded crime data are thought to be down to more rigorous rules being introduced across police forces where there have been widespread accusations that data was "fiddled" for years. A separate measure of crime rates - the Crime Survey of England and Wales - said levels were stable at 6.6 million incidents a year.

Mike Penning, the police minister, said: "We continue to see a rise in police recording of violent and sexual crimes. The ONS is clear that this rise reflects improvements in recording practice and a willingness of victims to come forward - this is something we welcome. The Government has made reducing violence, including knife crime, a priority and continues to work closely with the police and other organisations to tackle the drivers of these crimes. But we know there is more to do. Last year, we legislated to ensure that those convicted of carrying a knife more than once are automatically sent to prison and we are reviewing our measures on knife crime further - including supporting co-ordinated police action and discussing with retailers what more they can do. We recognise that crime is also changing - and the

Government has been working to get ahead of the game to tackle fraud and cyber crime."

Jack Dromey, the shadow policing minister, said: "Police recorded crime is rising and some of the most serious crimes have soared to the highest levels in years. There has been a major increase in knife crime, up nine per cent, a 27 per cent rise in violent crime and a 36 per cent increase in sexual offences. Reported rape is the highest since 2003. Today's figures do not even include online crime. Crime is changing and has moved online in recent years. The ONS has estimated that were such crimes to be included, the total number of recorded crimes would nearly double. The Tories have slashed police officers by 17,000 and broke their promise to the public to protect frontline officer numbers. Now we see the biggest increase in recorded crime in a decade. The first duty of any Government is the safety and security of our citizens. The biggest cuts to any police force in Europe is letting the British people down."

Chief Constable Jeff Farrar, of the National Police Chiefs' Council (NPCC), said the figures were "good news" because they were still lower than peak levels 20 years ago. "The six per cent increase in police recorded crime reflects our work to improve crime recording across the country. Many of the notable increases in specific crimes are attributed to more reporting and better recording. The NPCC lead for child protection, Chief Constable Simon Bailey, has said that increased confidence of victims to report crimes to the police has resulted in the significant increase in recorded crime but that, as the numbers continue to increase, we need to consider whether more offences are being perpetrated and he is looking at this issue. We believe that the increase in knife crime is about more than changes in recording and that the number of people carrying knives is on the rise. This is a worrying development after many years of reducing knife crime and chief officers are working together to determine how best to respond. Police chiefs are working individually, collectively and closely with key partners to adapt to the threats we are facing today and will do in the future so we can continue to reduce the number of people impacted by crime in the UK."

Brazil Prison Breakout: Inmates Blow Up Wall to Escape

Forty inmates escaped from jail in the eastern Brazilian city of Recife after a bomb was used to blow a hole in an external wall, authorities there say. Most of the prisoners were captured after a manhunt through local streets lasting several hours, but two were killed and one remains at large. It is the second mass breakout in the area in a week. On Wednesday 20/01/2016, 53 men escaped from another jail on the city outskirts and only 13 of them have since been found. Social media images broadcast on Brazilian TV captured the moment when the explosion ripped through the external wall of the Frei Damiao de Bozanno prison. Seconds after the blast, dozens of men are seen leaping through the hole in a cloud of dust.

Neville Lawrence Heartbroken as Police Officer Retires and Won't Face Misconduct Claim

The father of murdered teenager Stephen Lawrence has attacked Scotland Yard after a senior officer was able to retire while facing a possible misconduct claim over alleged spying on the family. Neville Lawrence said he was "very disappointed" and "heartbroken" that Commander Richard Walton left the force on Wednesday meaning he will now not face any disciplinary investigation. The Commander Walton was accused of meeting with an undercover officer in 1998 who had gathered information about the Lawrence family during the public inquiry into the teenager's death. The Independent Police Complaints Commission (IPCC) recently found that Mr Walton had a case to answer for alleged misconduct over the meeting. But his retirement means that matter will not be progressed any further. Speaking from his home in Jamaica, Mr

Lawrence, who son was murdered in 1993, said: "I am really disappointed. After 20 years of fighting for justice we have been knocked back again. "This officer is just going to walk away without answering what he has (allegedly) done. It is just heartbreaking. The force is supposed to be working with my family but it is working against us."

Lawyers for Mr Lawrence wrote to Metropolitan Police Commissioner Sir Bernard Hogan-Howe on Wednesday urging him to suspend Mr Walton before he retired. The letter, from law firm Hodge, Jones and Allen, read: "Without any suspension there is a real risk that Commander Walton will avoid sanctions as a result. We consider that the IPCC conclusions provide enough justification that it is in the public interest to suspend Commander Walton immediately in order to allow him to face disciplinary proceedings. There is a strong public interest in ensuring that any disciplinary sanctions are followed through, in order that the police are seen to be held accountable for their actions. Permitting Mr Walton to resign would cause serious damage to the reputation of the Metropolitan Police Service."

A Scotland Yard spokesman said Mr Walton had already formally retired and added that his case would not have fallen under regulations that would have allowed the force to stop his retirement by suspending him. Mr Walton said: "I have been intending to retire from policing on this date for thirty years and I also told the IPCC many months ago that I was retiring this week so it is unfortunate that it has taken so long for them to complete their report. Nevertheless, I leave the met with my integrity intact and extremely proud of the Counter Terrorism Command's track record in keeping London and the country safe from terrorism"

Asylum Seekers Let Down by Their Lawyers, Says Watchdog

Caterina Franchi, Justice Gap: A research commissioned into the quality of legal advice for asylum seekers has identified urgent need for improvement with almost half of all clients unhappy with their solicitors. The research for the Solicitors Regulation Authority (SRA) and Legal Ombudsman, carried out by MigrationWork CIC in collaboration with Refugee Action and Asylum Research Consultancy, drew on interviews conducted with 123 asylum seekers as well as case reviews and discussions with community groups. According to the study, only 49.5% of asylum seekers were satisfied with the quality of legal services they received from their advisers, who often failed to explain how the asylum process worked, were unclear on costs, used interpreters that spoke the wrong language and lacked the relevant legal knowledge to act in their clients' best interest. Some lawyers were found to have inadequate skills and expertise to take proper instructions from clients, who due to their traumatic past often provide incoherent accounts of their reasons for fleeing their country and risk to undermine their own claim.

Vulnerability of asylum seekers was a recurrent theme in the report. The language barrier, the difficulty to adjust to a new country, the traumatic events they might have experienced and potential mental health problems make asylum seekers particularly vulnerable service users. The report found that asylum seekers often turned to their communities for advice on legal representatives and were signposted to poor quality or unregulated advisers, with dubious referrals being made by interpreters receiving financial incentives from solicitors. When unhappy with the services they received, asylum seekers were found to be generally unaware they could make a complaint against their legal advisor or chose not to do so for fear of negative repercussions on their asylum claim.

Their vulnerability was exacerbated by a complex legal service market regulated by four different bodies (the SRA, the Bar Standards Board, the Chartered Institute of Legal Executives, and the Office of the Immigration Services Commissioner) affecting the ability of asylum seek-

ers to make informed choices as to whom they should appoint as their solicitor. Over the past few years, more and more solicitors have been referred to the SRA by the courts, following episodes of lawyers misleading judges, giving the wrong advice to clients or making meritless applications to the Court. Commenting on the study, Paul Philip, Chief Executive of the SRA, said: Asylum seekers requiring legal advice and support are particularly vulnerable and may be fleeing torture, imprisonment and death. The consequences of getting it wrong can be tragic and we will work with other organisations and law firms themselves to tackle any issues and to help improve the services they offer. Following the publication of the report, the SRA has decided to investigate a number of firms and undertake more in-depth research. The Law Society has promised to update its immigration and asylum accreditation scheme to improve the quality of advice.

Bijan Ebrahimi Case: Police Officers Dismissed for Misconduct *Guardian*

A police officer and a community support officer convicted of misconduct after the murder of a disabled man have been dismissed. PC Kevin Duffy, 52, and PCSO Andrew Passmore, 56, were found guilty of misconduct in public office in connection with the death of Bijan Ebrahimi in Bristol, in 2013. Ebrahimi, 44, was punched and kicked to death before his body was set on fire by neighbour Lee James, who wrongly believed he was a paedophile. Avon and Somerset police announced on Friday that Duffy and Passmore have been dismissed from the force following misconduct hearings. "It was alleged that PC Duffy breached the standards of professional behaviour in relation to his dealings with Bijan Ebrahimi between 10 and 15 July 2013," a spokesman said.

"PC Duffy knew, or ought to have known, that Ebrahimi was at risk of harm. He failed to visit or otherwise make contact with Ebrahimi and refused to speak to him on the telephone. As a result, PC Duffy was convicted of misconduct in a public office on 21 December, which has brought discredit to the constabulary. The allegations were upheld by the misconduct panel and, as a result, PC Duffy was found guilty of gross misconduct. The ruling of the panel was that PC Duffy be dismissed from Avon and Somerset police without notice. At a separate hearing earlier this week, PCSO Andrew Passmore was also dismissed in relation to this matter." Duffy and Passmore are two of 18 officers and staff facing misconduct proceedings within the force. Of those, nine are accused of gross misconduct. PCs Leanne Winter, 38, and Helen Harris, 40, were each acquitted of a charge of misconduct in public office following a seven-week trial.

Stephen Lynch for Judicial Review

[1] This is an application for Judicial Review of a decision of District Judge King made on 24/04/2015 at Newtownards Magistrates'' Court adjourning a hearing in respect of an alleged breach of bail by the applicant and remanding the applicant in custody. Mr R Lavery QC and Mr McKeown appeared for the applicant and Mr Henry appeared for the notice party, the PPS.

Background. [2] The following facts appear from the affidavit of Joe Mulholland, solicitor for the applicant. On 22 April 2015 the applicant was charged with burglary following a voluntary attendance PACE interview and was released on police bail to attend the Magistrates'' Court in 28 days. It was a condition of the applicant''s bail that he be subject to curfew from 11pm each night.

[3] On 23 April 2015 the applicant was arrested by police on suspicion of breach of the curfew condition of police bail. The police officer arrested the applicant on the basis that he was on the street after 11pm and therefore in breach of his bail whereas the applicant disputed that at the time of his arrest it was after 11pm.

[4] On 24/04/2015 the applicant appeared before Newtownards Magistrates'' Court on suspicion of breach of bail and on a charge of burglary that had been brought forward. The police officer who had arrested the applicant on suspicion of breach of bail was unable to attend the Court. As the applicant disputed the breach of bail the prosecution sought an adjournment. Mr Mulholland, on behalf of the applicant, objected to any adjournment. District Judge King adjourned the breach of bail hearing until Monday 27 April 2015 and remanded the applicant into custody.

[5] On Monday 27 April 2015 the breach of bail hearing resumed before Deputy District Judge Archer who concluded that he had no jurisdiction to deal with an adjourned breach of bail hearing. The issues before this Court are whether the District Judge had power to adjourn the breach of bail hearing and to remand the applicant in custody.

Declarations: [26] The Court proposes to make the following Declarations –

1. That the District Judge had power under Article 161 of the Magistrates Courts (NI) Order 1981 to adjourn the breach of bail hearing.

2. That the District Judge, not having formed the requisite opinion for the purposes of Article 6(6) of the Criminal Justice (NI) Order 2003, did not have power to remand the applicant in custody in respect of the alleged breach of bail.

Home Office Refuses to Publish Inquiry Into Death of Detainee Shackled For Heart Op

Lisa O'Carroll, Guardian: The Home Office is refusing to release the findings of an investigation into the death of a man who was handcuffed throughout a heart operation following a s tint in a detention centre near Heathrow airport. The case echoes the controversial death of Alois Dvorzac, an 84-year-old Canadian Alzheimer's sufferer, who died in shackles while detained in Gatwick airport en route to be reunited with his daughter in Slovenia.

Mohammed Jakaria Chowdhury died of heart failure in November 2012 at Harefield hospital in north-west London and was handcuffed for almost the entirety of his week-long stay before his death. A freedom of information application for details of his death by the charity Medical Justice was rejected by the Home Office's immigration enforcement department on the grounds that the details would be too distressing for his family. The charity is now applying to a first-tier tribunal in a bid to force the investigation into the public domain. "The real concern is that the Home Office are not being transparent and it is in the public interest that it is. If there is evidence he was treated in a manner so distressing it couldn't be released to the family, then it is even more important that people know about it," said Martha Spurrier, the barrister for the charity. She added that "a perverse consequence" of the Home Office logic was "the worse someone was treated the more unlikely we were to hear about it".

The charity was alerted to Chowdhury's death and the secret Home Office report by a glancing reference in a 2012 report by Her Majesty's Inspectorate of Prisons (HMIP). The report says Chowdhury was kept in restraints throughout a coronary operation to widen narrowed or blocked arteries. "A dying man had remained handcuffed while sedated and undergoing an angioplasty procedure in hospital; his restraints handcuffs were only removed seven hours before his death. The Home Office's professional standards unit had completed a critical investigation report into this case," said the HMIP report on Harmondsworth immigration detention centre, where Chowdhury had been held. It is not known if Chowdhury was an asylum seeker or had overstayed a visa, what age he was or whether he has any family in the UK, as no details have been released. "We know very little about Mr Chowdhury's case, but given he was sedated he clearly posed no risk to anyone. It is dehumanising and absolutely unacceptable for anyone to be restrained in that situation," said Theresa Schleicher, the acting director of Medical Justice.

The charity's appeal of the Home Office and information commissioner's decision will take place at the first-tier tribunal, which on Wednesday was adjourned until March. The appeal comes at a critical time for the Home Office. Last year it was heavily criticised by the prisons and probation ombudsman (PPO) over the circumstances surrounding 84-year-old Dvorzac's death, which it described as "shameful" and "wholly unacceptable". And last week it was again under fire when the former prisons and probation officer Stephen Shaw criticised its "opaque" attitude towards detention. His independent review said the reluctance to be more transparent about immigration detention was counter-productive and encouraged "speculative or ill-informed journalism" and inhibited healthy oversight. "It has been argued internationally that immigration detention is 'one of the most opaque areas of public administration'. It would be in everyone's interests if in this country it were less so," Shaw said. Although investigations are mandatory for all deaths in detention, none took place in Chowdhury's case because his detention status was lifted seven hours before his death. It is not known why as no details have been made public.

US: Courts Rubber Stamp Corporate Suits Against Poor *Human Rights Watch*

Courts across the United States have allowed multibillion-dollar corporations to secure judgments against alleged debtors en masse without providing meaningful evidence to support their claims, Human Rights Watch said in a report released today. Some legislatures and courts have also erected formidable barriers that block many alleged debtors from securing a meaningful hearing in front of a judge. The 80-page report, "Rubber Stamp Justice: US Courts, Debt Buying Corporations, and the Poor," scrutinizes how courts approach hundreds of thousands lawsuits brought every year by debt buyers – firms that specialize in buying up bad debts which they then try to collect for themselves. These suits have often been marred by patterns of apparent error, legal deficiency, and alleged illegality. Debt buyers have won court judgments against the wrong people, prevailed in suits that should have been barred by applicable state law, and garnished the wages or bank accounts of people who never received proper notice that they had been sued, along with other problems. Yet many courts continue to adjudicate these suits with astonishing speed and without subjecting them to any substantive scrutiny or even receiving meaningful evidence in support of the claims.

"Courts should be treating debt buyer lawsuits with heightened vigilance," said Chris Albin-Lackey, senior legal adviser at Human Rights Watch. "Rubber stamping debt buyer suits threatens the rights of poor people and ultimately undermines the basic integrity of the courts." The report is based on interviews with people sued by debt buyers, judges, lawyers, public officials, and debt buyer representatives across several US states and at all levels of government. Some judges expressed frustration with legal frameworks, court rules, and resource constraints that they say prevent them from subjecting debt buyer litigation to the kind of scrutiny the cases deserve. Human Rights Watch detailed pervasive problems with the way courts approach debt buyer lawsuits. The cases often pit multibillion-dollar corporations against people who cannot afford legal representation. Many defendants are effectively railroaded into paying off debts whose existence has never been proven, even when strong legal defenses are available to them.

Most defendants either cannot or do not mount any kind of an effective defense to the suits against them and in these cases many courts award default judgments in favor of plaintiffs without requiring much if anything in the way of evidence, Human Rights Watch found. This creates a risk that some courts rubber stamp large numbers of lawsuits that debt buyers could never win against a competent adversary in court – including some that are legally deficient or without supporting evidence. Some courts make it very difficult for defendants who

appear in court intending to fight the case to secure a meaningful hearing before a judge. Many courts push defendants into unofficial "negotiations" with debt buyer attorneys in the courthouse hallways. Human Rights Watch observed "hallway conferences" in which debt buyer attorneys misled or hectored defendants into capitulating and agreeing to pay without ever having the opportunity to present their side of the case to a judge.

Debt buying companies pay pennies on the dollar for vast portfolios of delinquent credit card and other debt, and then try to collect the full face value of those debts. Because the debts are purchased so cheaply, even a very low rate of collection can yield huge profits. Encore Capital, the industry leader, claims that one in every five US consumers either owes it money or has owed it money in the past. Encore and its largest competitor, Portfolio Recovery Associates, each collect $1 billion from US consumers every year, roughly half of that through debt litigation.

Much of the debt sold to debt buyers is credit card debt, carrying interest rates that routinely exceed 25 percent. The companies often allow interest to accumulate for years before filing suit, which can add thousands of dollars to the debts they ultimately try to collect in court. Many of the defendants are struggling or at the margins of poverty. Debt buyers rank among the heaviest individual users of the US civil court system, filing hundreds of thousands of suits every year. In New York's state court system, eight of the 20 most prolific civil plaintiffs were debt buying companies in 2014, filing more than 70,000 suits. Debt buyer lawsuits add to the overwhelming backlog of cases many courts already struggle to deal with, creating an incentive to dispose of the cases quickly rather than carefully.

Lord Janner Escaped Prosecution Due to CPS and Police Failings

Rajeev Syal, Guardian: Greville Janner escaped prosecution for serious sexual abuse of boys on three occasions because of failings by prosecutors and the police, an independent report has found. The Crown Prosecution Service (CPS) and Leicestershire police have been severely criticised by Richard Henriques, a retired judge, for mishandling investigations into the peer in 1991, 2002 and 2007. Lord Janner died last month while awaiting a trial of the facts. Details of the evidence gathered against the former Labour MP for Leicester West and the mistakes by officials and police officers have been published for the first time in the report. The report shows in sometimes harrowing detail how former residents of children's homes repeatedly made claims of abuse to officials in authority, but their claims were not acted upon.

The report found: • The decision not to charge Janner in 1991 was wrong because there was enough evidence against him to provide a realistic prospect of conviction for offences of indecent assault and buggery. In addition, the police investigation was inadequate and no charging decision should have been taken by the CPS until the police had undertaken further inquiries. • In 2002, allegations against Janner were not supplied by the police to the CPS and so no prosecution was possible. This merits investigation by the IPCC. • There was sufficient evidence to prosecute Janner in 2007 for indecent assault and buggery. He should have been arrested and interviewed and his home searched.

Henriques suggested that the government should look again at time limits on charging decisions, set up a new system when referring serious cases and establish a central case log so files are not lost. The retired judge found that a Leicestershire police investigation in 1991 failed to cover basic steps such as checking details of whether a 14-year-old boy had shared hotel rooms with Janner, and that only "extremely limited" inquiries were made at the children's homes where he lived.

These allegations related to 1975 when, it was alleged, the young boy from a children's

home met Janner after the then MP performed magic tricks. The alleged victim, known as Complainant One, said he was quickly befriended by Janner and was sexually abused and raped repeatedly. The complainant went to a wedding with the peer's family, it was alleged, and it was only two decades later in 2014 that a subsequent police investigation found there was film footage of Complainant One at the event. According to the report, the prosecuting authorities discussed the possibility of arresting and interviewing the complainant in relation to charges of perverting the course of justice.

A second alleged victim came forward in April 2000 when police in Leicester were investigating abuse in children's homes. Known as Complainant Two, he made a statement to police claiming he had been seriously sexually abused by Janner. Police did not pass the claim to the CPS in a file submitted in 2002, and no further action was taken. The report said Janner should have faced prosecution for two counts of buggery, one count of indecent assault and one count of gross indecency, as well as the 1991 claims, at this stage.

In 2007, a reviewing lawyer at the CPS, who had also advised in 1991 and 2002, said problems with the credibility of a third alleged victim again meant the peer could not be prosecuted. There was an eight-month delay between the police file being submitted and the charging decision being made. Complainant Three alleged that Janner had abused him in a children's home 27 years earlier. He claimed that after one session of abuse involving two other men, Janner patted a fellow paedophile on the back and said: "Well done, you groomed him well."

Janner, who had dementia, died last month aged 87. He had been the MP for Leicester West for 27 years and stood down at the 1997 election. His family insist he is innocent of any wrongdoing. Alison Saunders, the director of public prosecutions, said: "It is a matter of sincere regret that on three occasions, opportunities to put the allegations against Lord Janner before a jury were not taken." The peer was eventually charged with 22 offences relating to nine men and boys following another inquiry in 2013. Solicitors for the victims welcomed the report but said it would increase belief among victims that there had been a cover-up.

Peter Garsden, who represents 11 alleged victims, said the report opened the way for civil cases against Janner's estate. "It will be difficult to blame victims for inaction when a public body has behaved in the way described in the report," he said. Liz Dux, a specialist abuse lawyer at Slater and Gordon, which represents eight of Janner's alleged victims, said there needed to be an attempt to bring the individual prosecutors and police to account. "Alison Saunders' expression of 'sincere regret' over failures will be of little consolation unless it is followed by proper accountability," she said. "It is vital that those who made the decisions which resulted in Janner escaping justice are called to explain their reasoning."

Gun Gang Jailed For 45 Years After Running Operation From Prison

Kevin Rawlinson, Guardian: The leader of a gang of gun dealers who have been jailed for a total of 45 years was able to direct operations from his prison cell using a secret mobile phone. Ishmael Brown was one of five members of a ring that sold more than 40 guns in London. He sought deactivated weapons from his cell in HMP Rochester and his girlfriend Caitlin Adams collected and carried them. Brown's fellow inmate Ehsen Abdul-Razak also used an illicit mobile phone to organise sales. The gang was caught after two of its members, Aaron Murray and Uzair Patel, were found with a reactivated 9mm semi-automatic pistol by police while they were in a minicab in east London in June 2015. Officers worked out that Murray had been buying the weapons and having them reactivated at a workshop run by

former Polish soldier Bart Pawlowski. His expertise as a metalworker and his military background enabled him to make ammunition. Police said that an AK47-style weapon was among the more than 40 guns sourced by the gang in the six months up to Murray and Patel's arrests. Both Brown and Adams were pictured posing with a similar weapon.

According to the Metropolitan police, eight reactivated firearms linked to the gang have been recovered, with investigations ongoing to find the rest. Brown, 26, Murray, 28, Patel, 28, and Abdul-Razak, 19, all pleaded guilty to firearms offences. Brown was jailed for 12 years and Patel and Abdul-Razak to five each. Murray's sentencing has been adjourned until March pending psychiatric reports. Both Pawlowski, 42, and Adams, 25, were found guilty of conspiracy to transfer prohibited weapons and were jailed for 13 and 10 years respectively.

DC Claire Gentles, the investigating officer, said: "The firearms and ammunition this gang converted had the potential to cause great harm on the streets of London and there is no doubt that the capital is a safer place as a result of the network being dismantled. The sentencing of Caitlin Adams should serve as a warning to others of the grave consequences of storing and transporting guns for others." Met police detective inspector James Hale said: "This was a complex investigation targeting criminals both inside and outside of prison as part of the Met's fight against gang and gun crime. We successfully collaborated with our colleagues in the prison service to recover the mobile phones and I would like to pay tribute to my detectives who have worked tirelessly to make communities safer and see this case to its successful conclusion. I would like to take this opportunity to urge anyone with knowledge of the whereabouts of any of the outstanding weapons to contact police."

Dano Sonnex Still Subject to Human Rights Abuses

Dano has been told that he cannot come down south to HMP Belmarsh for accumulated visits as he is a "Malicious complainer ". It is surely Dano's human right to complain at the condition's he is held in. Dano has not been in conflict with staff now for at least 18 months and is going down the correct route of the complaints system one of his last basic human rights, only to be told he is a malicious complainer.I cannot get to Frankland as It is so far and my health isn't that good, my friend would normally drive me but she hasn't been in good health lately. Apart from myself, his mother, no body has been cleared since 2013 for visits to Dano, which is so annoying as others could do the visits as well Dano's mental health and prison law solicitor, (Dano is still being held in segregation and his mental health is deteriorating once again), has been refused help from the LAA and is in the process of an appeal.... just feel so deflated with these solicitors; Dano hasn't had a visit from them since July 2015 because of funding. *Kathy Sonnex, mother of Dano*

Ten Years After Last Execution, California's Death Row Continues to Grow

Liliana Segura for 'The Intercept': On January 17, 2006, California executed Clarence Ray Allen, the oldest person ever put to death in the state. It was just after midnight — the day after Allen's 76th birthday — and the execution was couched in controversy. Allen was legally blind, diabetic, and relied on a wheelchair. He had suffered a heart attack the previous fall. Later, when he asked that they just let him die if he were to have another heart attack before his execution date, prison officials said they could do no such thing. Yet when the press told the story of Allen's death, the prevailing descriptions were of a man in fine health — not nearly as weak as described by the attorneys who had tried to save his life. "In final moments, killer didn't seem so frail," read the headline in the San Francisco Chronicle, which noted Allen's "robust ability": how he

stood up on his own from his wheelchair before being helped to the gurney by four prison guards; how he "vigorously craned his head" toward his supporters in the viewing chamber. California Assemblyman Todd Spitzer, who witnessed the execution, called it "incredibly humane," remarking, "For 76 years old, he looked to be in remarkably good shape." When it was revealed that officials at San Quentin had to inject Allen with a second deadly dose of potassium chloride — raising potential questions about the efficacy of the state's execution protocol — the Associated Press presented this as proof that the "barrel-chested prisoner's heart was strong to the end."

The narrative was comforting in its reassurances: Regardless of any last legal challenges or activist hysterics, this was a dangerous killer, not a feeble old man. And Allen certainly had much blood on his hands: Sentenced to life in prison for killing his accomplice in a 1974 robbery, he was then convicted and sentenced to death a few years later for ordering three more murders while behind bars at Folsom Prison. In a state that had struggled to carry out executions for decades, Allen's death could be seen as a righteous way to usher in what was expected at the time to be a busy era for the execution chamber. With appeals running out for a number of prisoners, 2006 was to be the year California resumed executions "at a pace unseen in more than a generation," according to the Sacramento Bee. Yet a full decade later, California has not executed a single person. Soon after Allen's death in 2006, problems with lethal injection protocols brought the state's execution machinery to a halt. It has never restarted. In the meantime, California's death row, by far the largest in the country, has continued to grow, from 646 people in January 2006 to some 750 today. Last year, California officially ran out of space for its condemned prisoners, prompting Gov. Jerry Brown to request $3.2 million from lawmakers to expand its death row cells.

But the past decade is only the latest chapter in California's long and sordid death penalty saga, a history that has seen the state pour resources into a punishment regime that, when measured in executions, at least, exists more in theory than in practice. To date, only 13 people have been executed since the state brought back the death penalty in 1977. Meanwhile, more than 100 have died facing execution — a quarter of these prisoners have committed suicide, according to the California Department of Corrections and Rehabilitation (CDCR). The cost to California taxpayers, according to a 2011 study, has been more than $4 billion — and by 2030, the projected cost will reach $9 billion, with more than 1,000 people on death row.

Today, a growing number of Californians have reached the inevitable conclusion that it's time to get rid of the death penalty once and for all. In 2012, a hard-fought ballot initiative to replace capital punishment with life without parole lost by a narrow margin — and in 2014 support for the death penalty dropped to a 50-year low. Yet some remain committed to reviving executions in California — and late last year the state took a number of steps in that direction. In November, the same month a federal judge overturned a ruling that had declared the state's death penalty unconstitutional on Eighth Amendment grounds, officials introduced a new "humane and dignified" lethal injection protocol, replacing its embattled three-drug cocktail with an array of one-dose options. In December, pro-death penalty activists began collecting signatures in support of a ballot measure that would jumpstart executions by quickening the appellate process and shorten the amount of time between conviction and execution. This coming November, backers of the measure will face off against an opposing measure that again seeks to abolish the death penalty. Last week, a field poll found California voters evenly divided on the two ballot initiatives.

None of this activity makes executions imminent in California. The state's new lethal injection protocol will be subject to a lengthy public vetting process. And even if the pro-death penalty ballot measure prevails, implementing its changes would be costly and complicated. Still, should the state start killing again, Californians can expect to see a lot more prisoners who look like Clarence Ray Allen make their way to the gurney. As of now, the next 16 prisoners in line to die are mostly old men, all of whose sentences date back to the 1980s. Half are in their 60s, and two are more than 70; the oldest is 78.

Jeanne Woodford, who once oversaw executions as the warden at San Quentin, said killing these men "serves no penological purpose." The murders they committed "are horrible crimes, no doubt about it," she said. But decades later, their executions seem senseless and arbitrary, devoid even of any retributive value. In Allen's case, the father of one of his victims waited 25 years for his execution, only to die months before it was carried out. Nor do such executions keep Californians safer, Woodford says. It is understood that for a punishment to be a deterrent to crime, it must be "swift and certain." Today, more than ever, the death penalty in California is the exact opposite. Woodford worked at San Quentin for more than 25 years. When she started, there were only six people on death row. By the time she left in 2006, the number was more than 700. A lot of the prisoners she saw were young men — "gang members," she recalled, "the very people whose behavior changes over time." "These were not the people most Americans would imagine as the 'worst of the worst,'" she said. Many had been convicted under a 1978 ballot measure known as the Briggs initiative, which significantly expanded the kinds of crimes eligible for the death penalty. "When they widened the net, they included a lot of people who aren't serial killers," Woodford said. As she reached the end of her time at San Quentin, Woodford saw a death row population that was increasingly aging and infirm — "guys with dementia." Dozens had died of old age, illness, and suicide. "There is a wide gap between who the public thinks is on death row and who is actually on death row," she said.

After she left the CDCR, Woodford became an anti-death penalty activist, briefly heading the group Death Penalty Focus, which led the fight for Proposition 34, the 2012 ballot measure to abolish the death penalty. In doing so, she encountered the unlikeliest of allies: the man who authored the Briggs initiative, a former prosecutor-turned-defense attorney named Donald Heller. Once a staunch supporter of capital punishment — he once said he would "throw the switch" for a criminal defendant — Heller designed the 1978 ballot initiative at the behest of California state Sen. John Briggs, a right-wing conservative who aspired to join the U.S. Senate. The measure was designed to increase the number of eligible death penalty crimes through the use of "special circumstances" — aggravating factors that would automatically set the range of punishments for a criminal defendant as either death or life without parole. "Unfortunately," Heller recalled, "I did a really good job." The initiative passed overwhelmingly. A Loyola law professor who conducted a study of the death penalty for the Senate Judiciary Committee later decried the "reckless drafting" of the initiative as well as the political campaign around it: The ballot pamphlet told voters that only those who intended to carry out a murder would receive the death penalty under Briggs, but this did not turn out to be true. After the Briggs measure passed, prosecutors rushed to seek the death penalty. "Everyone was trying to put a notch on their gun," Heller recalled. "There were a tremendous number of capital cases filed."

As Heller watched the wave of new death sentences, he said, "I had second thoughts about what I wrote." He started to realize that he had made a number of erroneous assumptions about the death penalty. "The first was that it would deter murders," he said, a claim for which he says there is no empirical evidence. "The second: I assumed defendants would have competent representation." Heller was "shocked" to see just how shoddy the representation could be for people facing death row.But the case that ultimately turned Heller against the death penalty for good was that of a man named Tommy Thompson, one of the few people in California whose death sentence has cul-

minated with his execution. Sent to death row in 1984 largely on the word of a jailhouse snitch, Thompson was convicted for a rape and murder that prosecutors later pinned on his codefendant — but only after Thompson had already been condemned to die. Once the state "switched theories," Heller told the Los Angeles Times in 2011, "the prosecutor made no effort to notify Thompson's trial judge that evidence now showed that Thompson was not the actual murderer."

Heller was so disturbed by Thompson's case, he agreed to testify at his clemency hearing, "I laid out in detail the reasons that I felt this was wrong, that it violated the letter and spirit of the initiative, the fundamental law, the prosecutor's obligation, and was an injustice," he told the LA Times. But Gov. Pete Wilson declined to commute the sentence and Thompson was executed in 1998. His last words were read by the warden after his death at 12:06 a.m. "For 17 years the AG has been pursuing the wrong man," Thompson said. "I don't want anyone to avenge my death. Instead I want you to stop killing people. God bless." The experience forever altered Heller's feelings about capital punishment. "Something I wrote was utilized to execute someone who was innocent," Heller said. He no longer believes the death penalty is worth the financial or human cost. "If you have an imperfect system taking someone's life, it's a little bit frightening," Heller said. "Especially with the number of people who have been shown to be actually innocent. It makes you think."

Not everyone in the state is learning from the past. Indeed, as far as stalled executions are concerned, California has been here before. It took 15 years, after bringing back capital punishment in 1977, for the state to carry out its first execution, in 1992. In the meantime, hundreds were sent to death row. In 1990, a year that saw 33 new death sentences in the state, the Los Angeles Times ran an article titled, "Next to Die in Gas Chamber: It's Anybody's Guess." Of the 275 people on death row at the time, the story speculated, only those who were willing to drop their appeals and be executed were likely to be executed anytime soon. But even that was no guarantee. One man, on death row since the '80s for killing his wife, told the Times, "I don't wish to die, but I don't wish to live under these conditions." More than 25 years later, that man, Jerry Stanley, is still alive and now in his 70s. He has continued to ask for death. In 2011, as dubious lethal injection drugs made national news, he wrote to the Times, "I am willing to be the experimental guy to see whether or not they work."

These days California sends fewer people to death row. But the state still appears to be in denial about its death row crisis. In 2008, after four years of studying the state's death penalty system, the bipartisan California Commission on the Fair Administration of Justice declared it "dysfunctional." In addition to raising alarm about wrongful convictions, the commission warned lawmakers that sentencing an average of 20 prisoners per year to death — while executing no one — was creating "a backlog … so severe that California would have to execute five prisoners per month for the next 12 years just to carry out the sentences of those currently on death row."

The backlog, the commission found, is inextricable from the fact that virtually every person on California's death row is indigent — and thus reliant on the state for representation. But even as California has added scores to death row, it has defunded the office of the State Public Defender. So, while death penalty supporters like to blame prisoners' lengthy appeals for clogging the path to justice, in reality condemned inmates spend years just waiting to be appointed lawyers who can handle their case. Indeed, the commission found "excessive delay" at every stage of the review process: Prisoners sentenced to death wait between three to five years for an attorney to be assigned to their direct appeal. Longer still is the wait for counsel for state habeas petitions (eight to 10 years). These are followed by additional years of waiting for courts to rule: The commission found a more than six-year wait for decisions on federal habeas petitions. In all, the commission found, "The total lapsed time from judgment of death to execution is 20-25 years."

That prisoners spend so long languishing on death row was at the heart of a 2014 ruling by U.S. District Judge Cormac Carney, who overturned the death sentence of a California man who had spent 20 years facing execution — and at the same time declared the state's death penalty system unconstitutional on Eighth Amendment grounds. For most prisoners on California's death row, he wrote, their sentence "has been quietly transformed into one no rationale jury or legislature could ever impose: life in prison, with the remote possibility of death." Compounding the problem are prosecutors who continue to seek death sentences despite the state's clear inability to carry them out. In 2015, which marked historic lows in new death sentences across the country, California condemned more people to die than any other state.

As in the rest of the country, these sentences were clustered in specific jurisdictions, where a single stubborn DA can still send a lot of people to death row. Of California's 14 new death sentences last year, prosecutors in Riverside County were responsible for eight. In Slate last fall, Robert J. Smith called Riverside "the buckle of a new Death Belt," a place that has "produced more death sentences since 2010 than any other county in America except one — Los Angeles County, which is four times its size." "In one sense, it's irrational," Heller said of prosecutors currently seeking death sentences in California. But more obviously, it is political. "Prosecutors still use it as a notch, I think, more than anything else."

It also means that the state will continue to invest in its death row infrastructure. "Honestly, I don't think they have a choice," said Woodford. "The death penalty is in place because of the voters in the state of California." Keeping it in place means meeting certain constitutional standards. Most recently, responding to a ruling by a federal judge, prison authorities hastily revamped a new medical unit at San Quentin to convert it into a 39-bed psychiatric unit for prisoners with mental illness. ("We are curing them to make them executable," Berkeley law professor and death penalty scholar Frank Zimring told the LA Times.) But perhaps the ultimate emblem of capital punishment in California is the death chamber at San Quentin — a $853,000 renovation project completed years ago, and built by prisoners themselves. In 2010, members of the press were invited to inspect the new and improved death chamber. Reporters noted the roominess of the space (four times larger than the old one), its hexagonal shape, and the "pistachio-colored vinyl" covering the gurney (the "only splash of color" in the sterile room). The warden told reporters at the time that the prison was "fully prepared to carry out an execution," anticipating it would do so within a week. More than five years later, the execution chamber remains unused.

Last December, just two days after Christmas, the CDCR once more allowed journalists inside the death chamber. ("It smells of new paint," an LA Times reporter observed.) Twenty media outlets participated in the six-hour tour, which gave rare access to San Quentin's death row corridors, along with the solitary confinement unit the CDCR calls the Adjustment Center (otherwise known as "the hole"). The department denied there was any specific reason for the timing. ("One reporter recently asked to visit, and then another," a CDCR official wrote in an email to The Intercept.) The subsequent stories portrayed a grim universe, a prison within a prison that has grown out of the long legal limbo of its inhabitants. "Some two dozen wheelchairs sit parked outside the cells of aging men no longer able to walk," the Times noted. Meals are eaten in their cells, behind mesh screens. "Group therapy" is an assembly of men in metal cages. (The 21 women on death row are housed in a different prison in Chowchilla, two-and-a-half hours away.)

With no end in sight to their time on death row, prisoners do what they can — writing, exercising, listening to the radio. But there is no escaping the sense of neglect — of being forgotten. Speaking to the alternative weekly Metroactive, one prisoner summed up his life as "being left on a shelf."

Another said he had just ended a 27-day hunger strike to protest the absence of capital defense attorneys. “Guys are dying,” he said, “and nobody is up here saying, ‘You are a human being.’”

Kevan Thakrar an Appeal for Support – From John Bowden

Investigating division and conflict amongst the poorest and most oppressed as a means of control has always been a favoured strategy of the ruling class and within it's prisons (the laboratories of oppression) where the most disempowered experience naked repression the weapon of divide and conquer is sometimes used with murderous effect. Within the British prison system there exist prisons within prisons, places of concentrated repression where “troublemakers” and those who fight back are sent to be broken, and where those who inflict the repression encourage prisoners to take the rage created by that repression out on each other, thereby generating an unending cycle of violence, which is used to justify the use of even greater repression.

In 1998 the first “Close Supervision Centre” (CSC), based on the American prison “Special Management Unit” concept, was opened in Woodhill prison in Milton Keynes to hold what the prison authorities claimed were the system's most “disruptive and dangerous” prisoners, or those prisoners who fought back and encouraged others to do the same. Concentrating such prisoners in a single physical space or unit confronted those staffing it with an obvious dilemma: how to subdue and control such a group? Predictably, an unimaginatively brutal approach was adopted – a total lock-down regime blended with overt physical brutality.

The response of the prisoners “selected” for such brutality was collective resistance in the form of dirty protests and total non-cooperation, to which the permanently riot-gear clad staff responded with greater brutality, resulting eventually in an atmosphere and environment of total warfare. In 2000 the chief inspectorate of prisons following an inspection of the Woodhill CSC described conditions there as a clear breach of the European Convention of Human Rights, forcing the prison authorities to implement at least superficial changes to it's regime. Prison psychologists were now used to legitimate the CSC regime by pathologising the resistance of the prisoners and introducing a pavlovian behaviour-modification regime; compliant behaviour by prisoners would now be rewarded with “progression” to less austere and brutalising conditions within the CSC, including limited free-association periods outside their cells. Staff “supervising” the prisoners were now instructed to “engage” with them as opposed to overtly brutalising them, although the relationship of power remained dependent on physical force and the use of brutality when necessary

To guards long conditioned and accustomed to exerting control by straight-forward brutality the very slight relaxation of the CSC regime represented a threat to the ability to maintain absolute control, while having to now “engage” with as a group prisoners who they had formally brutalised as isolated individuals clearly unnerved them. Fearful of now becoming a target for angry and embittered prisoners they instigated and fermented animosity between and amongst those prisoners and then used the slightly relaxed regime to facilitate physical violence between some prisoners; placing sufficiently “wound-up” prisoners in the small outside exercise pen together ensured the channelling of rage and violence and it's expend amongst prisoners themselves. On one occasion this resulted in the near death of a prisoner.

Whilst the regime operating in the Woodhill CSC might have been slightly modified to allow prisoners to “progress” back to the prison mainstream providing they showed a sufficiently cooperative attitude, the CSC at Wakefield prison is reserved for those prisoners who will probably never leave its confines. The emphasis at the Wakefield CSC is one of straightforward containment and control, so prisoners there are simply entombed in their cells and allowed no human interaction whatsoever; it is a regime and form of treatment that defies and concept or convention of basic human rights. Kevan Thakrar, currently held in the Wakefield CSC, is a prisoner who has experienced and endured many years of brutal and inhumane treatment at the hands of prison staff who are determined to destroy him. Cleared by a jury in 2012 of allegedly assaulting prison staff and more recently by the CPS for a similar allegation, Kevan has become a target of victimization by the Prison Officers Association and it's members who staff the CSC system. Whilst held in the Woodhill CSC Kevan, who was supposedly on a permanent lock down regime, was unlocked and allowed out of his cell one afternoon with surprisingly few guards present. Understandably suspicious, Kevan soon discovered the reason for the guards apparent lassitude; unlocked too was a dangerous mentally ill prisoner. Kevan immediately engaged the prisoner in conversation and eventually encouraged him to abandon his intention to do the guards bidding by attacking Kevan. Their plan frustrated the guards re-materialised and returned Kevan to his cell and permanent lock down again. Following an unrelenting barrage of legal actions against the prison authorities challenging his placement in the Woodhill CSC, which included an independent psychology report strongly recommending his return to the mainstream prison population on medical grounds, Kevan was transferred to the even more psychologically brutalising environment of the Wakefield CSC. The intention was clear: to bury Kevan permanently in an end of the line hell hole and allow those “supervising” it to do whatever was necessary to break his sanity and spirit of resistance. Held within the Wakefield CSC are not just prisoners who have fought and resisted the system; some are there for acts of prisoner on prisoner violence, some of whom are hard-core racists. It was from this small group that the guards staffing the Wakefield CSC recruited for their campaign of psychological harassment against Kevan. The message communicated to these willing helpers was their assistance would be rewarded with eventual “progression” to a less austere place of confinement. Kevan's mixed race heritage now became the focus of this quisling group's racism, expressed in constant verbal abuse and threats shouted from cell windows, as well as the throwing of urine from windows at Kevan when he exercised in the small yard just below the cell windows. The response of the guards supposedly “supervising” the place was to laugh and encourage even more the racist behaviour and abuse. Those supposedly managing the Wakefield CSC, senior managers, psychologists, etc., are apparently content to allow uniformed staff “supervising” the day to day lives of the prisoners held there absolute discretion in how their power is used or abused, providing absolute control is maintained.

As a result, Kevan now faces a daily struggle against not only a de-humanising regime of solitary confinement and sensory deprivation enforced by openly hate filled guards, but also the constant racist verbal abuse of those keen to win the favour of their masters. We must do whatever we can to support that struggle and let Kevan's captors and oppressors know that he is not alone.

Please write to the following protesting at Kevan's treatment:

HM Prison Service Headquarters, Clive House, 70 Petty France, London, SW1H 9EX

The Rt Hon Michael Gove MP: Ministry of Justice, 102 Petty France, London, SW1H 9AJ

Governor: David Harding: HMP Wakefield, 5 Love Lane, Wakefield, WF2 9AG

IMB - 9th Floor, Post Point 9.52, The Tower, 102 Petty France, London, SW1H 9AJ

Letters of Support to: Kevan Thakrar: A4907AE HMP Wakefield, 5 Love Lane, Wakefield, WF2 9AG

Demonstrate in Support of Kevan Thakrar Thursday 18th February 2016 - 12:30 pm to 2:30 pm HM Prison Service Headquarters, Clive House, 70 Petty France London SW1H 9EXDemand the Prison Service deselect him from the Close Supervision Centre (CSC) punishment system!Organised by Justice for Kevan Thakrar. For more info: justiceforkevan.com